











BURT FRANKLIN; RESEARCH AND SOURCE WORKS SERIES 109  
(AMERICAN CLASSICS IN HISTORY AND SOCIAL SCIENCE 13)

# DEBATES

ON THE

ADOPTION OF THE FEDERAL CONSTITUTION.



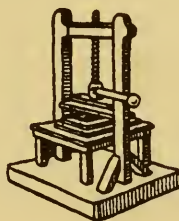
THE  
DEBATES  
IN THE SEVERAL  
STATE CONVENTIONS  
ON THE ADOPTION OF THE  
FEDERAL CONSTITUTION  
AS RECOMMENDED BY THE  
GENERAL CONVENTION AT PHILADELPHIA  
IN  
1787  
TOGETHER WITH THE  
JOURNAL OF THE FEDERAL CONVENTION  
LUTHER MARTIN'S LETTER  
YATES'S MINUTES  
CONGRESSIONAL OPINIONS  
VIRGINIA AND KENTUCKY RESOLUTIONS OF '98-99  
AND  
OTHER ILLUSTRATIONS OF THE CONSTITUTION  
—  
IN FIVE VOLUMES  
VOL. I  
—

SECOND EDITION, WITH CONSIDERABLE ADDITIONS

COLLECTED AND REVISED FROM CONTEMPORARY PUBLICATIONS

By JONATHAN ELLIOT

BURT FRANKLIN; RESEARCH AND SOURCE WORKS SERIES 109  
(AMERICAN CLASSICS IN HISTORY AND SOCIAL SCIENCE 13)



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# P R E F A C E

TO THE FIRST EDITION.

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THE following volumes furnish a collection of the Debates and Proceedings which took place in the different states, on the adoption of the Federal Constitution, as submitted by the General Convention, on the 17th of September, 1787. In the compilation, care has been taken to search into contemporary publications, in order to make the work as perfect as possible. Still, however, the Editor is sensible, from the daily experience of the newspaper reports of the present time, that the sentiments they contain may, in some instances, have been inaccurately taken down, and, in others, probably, too faintly sketched, fully to gratify the inquisitive politician; but they nevertheless disclose the opinions of many of the most distinguished revolutionary patriots and statesmen, in relation to the powers intended to be granted to the Congress of the United States under the Constitution, and certainly may form an excellent guide in expounding many doubtful points in that instrument. In forming a History of the Constitution, the materials they furnish must be also considered of the greatest importance. The lights, too, which they throw on the character and the men of those extraordinary times, will always give them a sufficient interest, in the eyes of an intelligent community, to confer a peculiar value on their publication, rescued from the ephemeral prints of that day, and now, for the first time, presented in a uniform and durable form.

In another point of view, these Debates must be acceptable, at the present moment. In the recent Congresses, a

vast number of resolutions have been submitted, proposing various amendments to the Constitution — a fact sufficiently striking to call the attention of the nation at large, seriously to consider the views and ponder on the arguments of those who opposed or advocated the Constitution at the time of its adoption. Hence, on entering the field of debate on constitutional topics, an acquaintance with these opinions and sentiments must certainly be of the first importance to public speakers. In exercising the powers of legislation, could Congress consult higher authority? In expounding parts of the Constitution which seem extremely doubtful, the publication of the Proceedings and Debates of the states must, at least, be *useful*; for what the states really intended to grant to the general government must be looked for in their acts, and in their discussions, which manifest their *intentions*, in a manner peculiarly satisfactory, touching constitutional topics, so frequently the subject of controversy in Congress, and in the legal tribunals of the country.

There is a further, and perhaps not much inferior interest, that attaches to these Debates: they abound, it will be seen, in many of the most bold and striking features of eloquence, which do not yield, in force of argument, strength of intellect, or in statesman-like views, to the productions of any modern orator. With prophetic vision, (in our days singularly verified,\*) a distinguished individual, who participated in these debates, looked forward to the high destinies of this republic, and foretold that political prosperity and happiness which an excellent Constitution is daily developing for the benefit of posterity.

JONATHAN ELLIOT.

WASHINGTON, *Feb.* 8, 1830

\* General Hamilton's prediction in relation to imposts.

## SECOND EDITION.

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HONORED by the adoption of resolutions, in both Houses of Congress, directing these volumes of Debates to be furnished for the use of the senators and representatives, and gratified by an extensive demand, elsewhere, for this work, the Editor has been induced to publish a Second Edition, much enlarged and improved, not only by the insertion of additional illustrative matter, but also by a more extensive stock of Debates, which he hopes may confer greater value on his undertaking. The practice of the Constitution has likewise been brought down to the present time, in the form of "Opinions," delivered during debate, in the twenty-fourth Congress.

*May 17, 1836.*

**J. E.**

## NOTICES OF THIS WORK.

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*Extract of a Letter, dated Montpelier, July 7, 1830.*

"Dear Sir: — Being obliged, at my age, to economize my intellectual employments of every sort, I have only been able to glance over the selections illustrative of the Federal Constitution, you have appended to the last volume. They appear to be of a class which must add to the value of the work, such as that of which they make a part. With well wishes and respect,

"MR. ELLIOT.

JAMES MADISON."

---

*Extract of a Letter, dated Cambridge, Mass., Aug. 28, 1830.*

"Dear Sir: — I wish you to direct your Boston bookseller to send a copy of your work to the Law Library of Harvard College. I have not a doubt that it will find a ready sale among us. . . . In a political view, I can scarcely imagine a more acceptable present to the public; and to statesmen it must be invaluable, as a repository of facts, as well as of arguments, respecting the great points of constitutional law. I am, with great respect, your obliged and humble servant,

"JONATHAN ELLIOT, Esq.

JOSEPH STORY."

---

*From the Vice-President of the United States, dated Fort Hill, May 16, 1831.*

"Sir: — I have looked over, with care, your compilation, and consider it a valuable collection of facts and arguments, calculated to shed much light on the nature of our political institutions.

"Such a work was greatly needed, and, if extensively circulated, must have a most salutary effect, by enlightening the public mind on points so important to be well understood as the powers and character of the general government. I wish you much success in so useful an undertaking. With respect, I am, &c. &c.

"JONATHAN ELLIOT, Esq.

J. C. CALHOUN."

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"A great body of valuable materials relative to the Federal Constitution is embraced in Mr. ELLIOT's work, published yesterday. The Debates and Proceedings of the General Convention, and the State Conventions, are given at large, as far as they have been reported. There is also a vast mass of matter touching the practice of the Constitution in the halls of Congress, and in the courts of the Union. Politicians must save labor by consulting it." — *National Intelligencer*, May 28, 1830.

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"Ample illustrations of the Federal Constitution have been produced, in a work just from the press, by Mr. ELLIOT, in which he has embodied all the matter of the Journal of the Federal Convention, including Yates's Notes of Debates, Luther Martin's Letter, &c., at large; and a record of congressional opinions, collected from the files of forty years past, on controverted points on the Constitution. Such a work must possess a prominent interest, for the present as well as the future. To politicians or constitutional lawyers it will indeed be acceptable." — *United States Telegraph* of May 29, 1830.

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"The Federal Constitution. — Mr. JONATHAN ELLIOT has just published, in four volumes, a collection of valuable materials illustrative of the Constitution. Full indexes to the whole make it a work of convenient reference, and valuable to the private citizen as well as to the statesman or constitutional lawyer. We trust that the work will receive a patronage commensurate with the great labor and cost of its preparation." — *N. Journal*, May, 1830.

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"The 'Debates on the Constitution,' a work which has lately been published by Mr. JONATHAN ELLIOT, of this city, in four volumes octavo, and which we briefly noticed a few days since, is one of the greatest importance that could have made its appearance at the present day. We cannot too strongly recommend it to all who desire to be enlightened upon the great questions which now occupy the public mind, as they will therein see the opinions as to the nature and powers of the Federal Government entertained at the time of its original organization, by many of the most eminent men of this country." — *Banner of the Constitution*, by C. Raguet, Esq., of June 8, 1830.



# CONTENTS.

---

	Pages.
Federal Constitution, . . . . .	1 to 21
Ante-Revolutionary History, . . . . .	22 to 42
Approaches towards Independence, . . . . .	42 to 60
Declaration of Independence, . . . . .	60 to 63
Political Rights and Sovereignty, . . . . .	63 to 67
Occurrences incident to Act of Confederation, . . . . .	67 to 69
Official Action accompanying Act of Confederation, . . . . .	69 to 70
Confederation, Debates, . . . . .	70 to 78
Articles, . . . . .	79 to 84
Objections of certain States, . . . . .	85 to 92
Proceedings which led to the Adoption of the Con- stitution, . . . . .	92 to 120
The Federal Convention, . . . . .	120 to 318
Ratifications, . . . . .	318 to 338
Amendments proposed, . . . . .	338 to 343
Luther Martin's Letter, . . . . .	344 to 389
Yates's Minutes, . . . . .	389 to 479
Yates and Lansing's Letter, . . . . .	480 to 482
Edmund Randolph's Letter, . . . . .	482 to 491
Sherman and Ellsworth's Letter, . . . . .	491 to 492
Elbridge Gerry's Letter, . . . . .	492 to 494
George Mason's Objections, . . . . .	494 to 496
John Jay's Address, . . . . .	496 to 502
Richard Henry Lee's Letter, . . . . .	503 to 505
Gouverneur Morris's Letter to General Washington, . . . . .	505 to 506
Gouverneur Morris to Thomas Pickering, . . . . .	506 to 507
James Madison to Mr. <i>Spears</i> , . . . . .	507 to 508



CREDENTIALS:—

Page.

New Hampshire, dated June 27, . . . . .	126	Delaware, Feb. 3, . . . . .	130
Massachusetts, April 6, . . . . .	126	Maryland, March 26, . . . . .	131
Connecticut, May 2d, Thursday, . . . . .	127	Virginia, May 2, . . . . .	132
New York, Feb. 23, . . . . .	127	North Carolina, April 3, . . . . .	133
New Jersey, Nov. 23, . . . . .	123	South Carolina, April 10, . . . . .	136
Pennsylvania, March 23, . . . . .	129	Georgia, April 17, . . . . .	137

1787.

May 14. JOURNAL OF THE FEDERAL CONVENTION:—

List of Members, . . . . .	139
23. 9. RULES, . . . . .	141, 143
Mr. EDMUND RANDOLPH'S FIFTEEN PROPOSITIONS, . . . . .	141
Mr. CHARLES PINCKNEY'S DRAFT OF A FEDERAL CONSTITUTION, . . . . .	145
30. Mr. Randolph's Propositions considered in Committee, . . . . .	150
31. Right of Suffrage further considered; Legislative Rights, . . . . .	151
June 1. Executive Powers; Duties, . . . . .	154
2. Term of Service, Choice, Salary, limited Period, Ineligibility, Impeachment, . . . . .	156
4. Negative or Veto, . . . . .	153
5. National Judiciary; New States, . . . . .	160
6. Inferior Tribunals; Negative on State Laws, . . . . .	163
7. Elections by Districts, . . . . .	165
8. Representative Classes, . . . . .	166
9, 11. Executive Suffrage, . . . . .	167
Suffrage; Ratio; Vote, . . . . .	163
Republican Constitution; Amendments, . . . . .	169
12. Term of Service; Salary, . . . . .	171
13. Jurisdiction of the Supreme Tribunal, . . . . .	174
Money Bills, . . . . .	174
14, 15. Mr. PATTERSON'S ELEVEN PROPOSITIONS, . . . . .	175
16, 18. Mr. P.'s Propositions considered; Revisal of Confederation, . . . . .	177
Col. HAMILTON'S PLAN OF GOVERNMENT, in Eleven Propositions, . . . . .	179
19. Mr. Patterson's Propositions postponed, . . . . .	180
Mr. RANDOLPH'S NINETEEN RESOLUTIONS submitted, as altered, amended, and agreed to, . . . . .	181
20. Legislative, Judiciary, and Executive, . . . . .	183
21. Legislature; two Branches, . . . . .	184
22. Congressional Compensation; Age, . . . . .	185
23. Congressional Compensation, . . . . .	186
25. Second Branch chosen by the Legislatures; Service; Age, 30 Years, . . . . .	187
26. Biennial Term; Pay; Eligibility, . . . . .	189
Office holding; Ineligibility; Originating Acts, . . . . .	190
27. Right of Suffrage in the First Branch, according to the Confederation, . . . . .	191
28. Right of Suffrage in First or Second Branch, . . . . .	191
29. Right of Suffrage; equal Vote in the Senate, . . . . .	191
30. New Hampshire Delegates requested to attend; equal Vote, . . . . .	192
July 2. Equal Vote in the Second Branch; Suffrage, . . . . .	193
5. Report on Ratio of Representation; Money Bills to originate in the First Branch, . . . . .	193
<i>Note.</i> Census and Quotas in 1785, . . . . .	194
6. Reference and Votes, . . . . .	195
Money Bills not to be altered in the Second Branch; Appropriations; First Branch, . . . . .	195
7. Use of the Philadelphia Library offered to the Convention; Equal Vote, . . . . .	196
9. Apportionment of Representatives, (56.) . . . . .	196
Census for the Population and Wealth, . . . . .	197
10. Apportionment for, (65.) . . . . .	197
Propositions to alter the Number of Representatives in New Hampshire, North and South Carolina, and Georgia, . . . . .	198
11. Census; the "Three fifths of the Inhabitants of other Descriptions," &c. . . . .	199
12. Taxation according to Representation and the "Three fifths;" Census, . . . . .	201
13. Assessment on Inhabitants; Census, . . . . .	203
Division of States hereafter, . . . . .	204
14. Representatives hereafter not to exceed the Number of the original Thirteen States; Second Branch; Proposal to have thirty-six Members, . . . . .	204
16. Sixty-five Representatives proposed; Money Bills, . . . . .	205

	Page.
787.	
July 17. Rights of the States to be protected; Negative on Laws,.....	206
Acts and Treaties the supreme Law, .....	207
Electors, their Appointment by the Legislature; Term,.....	208
18. National Judiciary; Nomination,.....	209
Inferior Tribunals; New States,.....	210
19. National Executive; Electors' Term,.....	211
20. Supreme Executive; Elections; Qualifications; Removable; Im- peachment, .....	212
21. Pay; Negative on Acts; Nomination and Appointment of Judges, ...	214
23. Amendments; Oath to support the Constitution, .....	215
Representation; Vote per Capita,.....	215
Reference of Proceedings; one from each State,.....	216
24. Supreme Executive appointed by State Electors,.....	217
25. Supreme Executive, six Years in any twelve; Copies of Proceedings to be furnished each Member,.....	218
26. National Executive; Seven Years proposed; to be ineligible a second Time; Qualification of landed Property,.....	219
Pensioners disqualified, or Defaulters; Seat of Government not to be at the Seat of a State Government, .....	220
REPORT OF THE COMMITTEE OF DETAIL ON THE TWENTY-THREE RES- OLUTIONS FOR THE PURPOSE OF REPORTING A CONSTITUTION,.....	221
Aug. 6. Report delivered, and Copies furnished, .....	223
6. Draft of A CONSTITUTION BY THE COMMITTEE OF FIVE, (debated till September 12.).....	224
7. Preamble, &c., considered in detail; Negative; Time of Meeting,....	230
8. Residence; Taxation; Representation,.....	232
9. Vacancies; Resignations to be supplied by the Legislature; Qualifica- tions, .....	234
10. Quorum; Attendance; Concurrence; Dissent,.....	236
11. Each House to keep a Journal and publish; Adjournment, not more than three Days,.....	238
13. Citizenship; Limitation; Money Bills, .....	240
14. Office prohibited; Pay, per Diem, \$5; Mileage, same, .....	241
15. Bills, originating, &c.,.....	242
16. Approval of Orders; State Exports,.....	244
17. Piracies; Counterfeiting; Rebellion,.....	245
18. Additional Powers to be vested, defined; Debts to be assumed,.....	247
20. Propositions; Privileges, &c., referred to a Committee of Five; Council of State to assist the President; Organization of the Departments, &c.; Treason defined,.....	249
21. Livingston's Report on "the Debts;" Requisitions,.....	253
22. Rutledge's Report on sundry Amendments, .....	256
23. Report of Committee of Eleven; Militia; Offices; Treaties, .....	258
24. Slaves. limiting their Importation; Choice of President, .....	261
25. Debts; Slaves; Laws; Duties; Ports; Taxes, .....	264
27. Reprieves; Removal; Oath; Slavery; Controversies; Judiciary,....	267
28. Commerce; Crimes; Bills; ex post facto Laws; Misdemeanors,....	270
29. Bankruptcies; Fugitive Slaves; New States, .....	272
30. New States; Western Claims; needful Rules and Regulations; Re- ligious Test, .....	274
31. Representation; Constitution to be submitted to State Conventions; Presidency, .....	277
Sept. 3. Records; Bankruptcies; Office,.....	281
4. Partial Report of the Committee of Eleven, .....	283
5 to 10. Brearly's Report further considered, .....	285 to 297
12. PLAN OF THE CONSTITUTION, by the Committee of Revision of Five Members, appointed on the 8th of September to revise the Style, &c.,.....	297 to 305
12. Letter to Congress on submitting the Constitution, .....	305
13. Johnson's Resolutions for Ratification, and putting the Constitution into Operation, .....	306
Madison's Minutes, completing the Journal; Votes, &c.,.....	307
17. Constitution engrossed and signed; Representative Clause reconsid- ered; Journal subject to the Order of Congress,.....	317
<b>SUPPLEMENT.</b> — Reception of the Report of the Convention by Congress, ...	318



RATIFICATIONS, showing the Order in which the Thirteen States of the old Confederation adopted the Federal Constitution,..... 319

1. Delaware,..... Dec. 12, 1787, ..... 319
2. Pennsylvania,..... Dec. 12, 1787, ..... 319
3. New Jersey,..... Dec. 18, 1787, ..... 320
4. Connecticut,..... Jan. 9, 1788, ..... 321
5. Massachusetts,.... Feb. 6, 1788, ..... 322
6. Georgia,..... Jan. 2, 1788, ..... 323
7. Maryland,..... April 2, 1788, ..... 324
8. South Carolina, .. May 23, 1788, ..... 325
9. New Hampshire, .. June 21, 1788, ..... 325
10. Virginia,..... June 26, 1788, ..... 327
11. New York,..... July 26, 1788, ..... 327
12. North Carolina, .. Nov. 21, 1789, ..... 333
13. Rhode Island,..... June 16, 1790, ..... 334
14. Vermont,..... Oct. 27, 1790, ..... 337

1789. March 4. AMENDMENTS proposed at the First Congress, ..... 338

Returns of the Decisions of the States thereon,..... 339

AMENDMENTS — Third Congress, Second Session,..... 340

Fourth Congress, First Session, ..... 340

Fifth Congress, Second Session, ..... 341

Eighth Congress, First Session, ..... 341

LUTHER MARTIN'S LETTER, disclosing the Proceedings of the Federal Convention, addressed to the Legislature of Maryland,..... 344 to 389

ROBERT YATES'S MINUTES of the Secret Debates of the Federal Convention, from May 25 to June 5,..... 389 to 479

YATES AND LANSING'S LETTER to the Governor of New York, furnishing their Reasons for not subscribing to the Constitution, ..... 480

EDMUND RANDOLPH'S LETTER to the Speaker of the House of Delegates, Virginia, containing his Reasons for not subscribing to the Federal Constitution, ..... 482 to 491

SHERMAN AND ELLSWORTH to the Governor of Connecticut, ..... 491

ELBRIDGE GERRY'S Reasons for not signing the Federal Constitution, ..... 492

GEORGE MASON'S Objections to the Federal Constitution, (a Virginia Delegate.) 494

JOHN JAY'S ADDRESS on the proposed Federal Constitution to the People of New York, ..... 496

RICHARD HENRY LEE'S LETTER to the Governor of Virginia, ..... 503

GOVERNEUR MORRIS to General Washington, and also to Timothy Pickering, . 505

JAMES MADISON to Mr. Sparks, on G. Morris's Course in the Federal Convention, 507

---

DIGEST OF THE CONSTITUTION.

---

Acts, records, and judicial proceedings of each state, entitled to faith and credit in other states, ..... 4 1 13

Amendments to the Constitution, how made,..... 5 1 14

Appropriations by law. — (See *Treasury*.)..... 1 9 7

Attainder, bill of, prohibited, ..... 1 9 8

Attainder of treason shall not work corruption of blood or forfeiture, except during the life of the person attained, .. 3 3 13

Bills for raising revenue shall originate in the House of Representatives, .. 1 7 5

Before they become laws, shall be passed by both houses, and approved

	Art.	Sec.	Pa.
<i>by the President ; or, if disapproved, shall be passed by two thirds of each house, . . . . .</i>	1	7	5
<i>Bills not returned in ten days, unless an adjournment intervene, shall be considered as approved, . . . . .</i>	1	7	5
<i>Capitation Tax. — (See Tax.) . . . . .</i>	1	9	7
<i>Census, or enumeration, to be made every ten years, . . . . .</i>	1	2	2
<i>Claims of the United States, or of the several states, not to be prejudiced by any construction of the Constitution, . . . . .</i>	4	3	14
<i>Citizens of each state shall be entitled to the privileges and immunities of citizens in the several states, . . . . .</i>	4	2	13
<i>Commerce, regulations respecting, to be equal and uniform, . . . . .</i>	1	9	7
<i>Congress, vested with legislative power, . . . . .</i>	1	1	1
<i>May alter the regulations of state legislatures concerning elections of senators and representatives, except as to place of choosing senators, . . . . .</i>	1	4	3
<i>Shall assemble once every year, . . . . .</i>	1	4	3
<i>May provide for cases of removal of President and Vice-President, . . . . .</i>	2	1	10
<i>May determine the time of choosing electors of President and Vice-President, . . . . .</i>	2	1	9
<i>May invest the appointment of inferior officers in the President alone, in the courts of law, or the heads of departments, . . . . .</i>	2	2	11
<i>May from time to time establish courts inferior to the Supreme Court, . . . . .</i>	3	1	12
<i>May (with one limitation) declare the punishment of treason, . . . . .</i>	3	3	13
<i>May prescribe the manner of proving the acts, records, and judicial proceedings of each state, . . . . .</i>	4	1	13
<i>The assent of required to the formation of a new state within the jurisdiction of any other, or by the junction of two or more, . . . . .</i>	4	3	14
<i>May propose amendments to the Constitution, or, on application, call a convention, . . . . .</i>	5	1	14
<i>The assent of required to the admission of new states into the Union, . . . . .</i>	4	3	14
<i>To lay and collect duties on imposts and excises, . . . . .</i>	1	8	6
<i>To borrow money, . . . . .</i>	1	8	6
<i>To regulate commerce, . . . . .</i>	1	8	6
<i>To establish uniform laws of bankruptcy and naturalization, . . . . .</i>	1	8	6
<i>To coin money, regulate the value of coin, and fix the standard of weights and measures, . . . . .</i>	1	8	6
<i>To punish counterfeiting, . . . . .</i>	1	8	6
<i>To establish post-offices and post-roads, . . . . .</i>	1	8	6
<i>To authorize patents to authors and inventors, . . . . .</i>	1	8	6
<i>To constitute tribunals inferior to the Supreme Court, . . . . .</i>	1	8	6
<i>To define and punish piracies, felonies on the high seas, and offences against the laws of nations, . . . . .</i>	1	8	6
<i>To declare war, grant letters of marque, and make rules concerning captures, . . . . .</i>	1	8	6
<i>To raise and support armies, . . . . .</i>	1	8	6
<i>To provide and maintain a navy, . . . . .</i>	1	8	6
<i>To make rules for the government of the army and navy, . . . . .</i>	1	8	6
<i>To call for the militia in certain cases, . . . . .</i>	1	8	6
<i>To organize, arm, and discipline, the militia, . . . . .</i>	1	8	6
<i>To exercise exclusive legislation over ten miles square, . . . . .</i>	1	8	7
<i>To pass laws necessary to carry the enumerated powers into effect, . . . . .</i>	1	8	7
<i>To dispose of, and make rules concerning, the territory or other property of the United States, . . . . .</i>	4	3	14
<i>Constitution, formed by the people of the United States, Preamble, . . . . .</i>			1
<i>How amended, . . . . .</i>	5	1	14
<i>And the laws under it, and treaties, declared to be the supreme law, . . . . .</i>	6	1	15
<i>Rendered operative by the ratification of the Conventions of nine states, . . . . .</i>	7	1	15
<i>Conventions for proposing amendments to Constitution, . . . . .</i>	5	1	14
<i>Court, Supreme, its original and appellate jurisdiction, . . . . .</i>	3	2	12
<i>Courts, inferior to the Supreme Court, may be ordained by Congress, . . . . .</i>	3	1	12
<i>Crimes, persons accused of, fleeing from justice, may be demanded, . . . . .</i>	4	2	13
<i>Debts against the Confederation to be valid against the United States under this Constitution, . . . . .</i>	6	1	15
<i>Duties on exports prohibited, . . . . .</i>	1	9	7
<i>On imports and exports, imposed by states, shall enure to the treasury of the United States, . . . . .</i>	1	10	8

<i>Elections</i> , of senators and representatives, shall be prescribed by the state legislatures, as to time, place, and manner, .....	1	4	3
Qualifications and returns of members of Congress to be determined by each house, .....	1	5	4
<i>Electors</i> of President and Vice-President, how chosen, and their duties, ...	2	1	9
and 12th amendment, .....			20
Shall vote the same day, throughout the United States, .....	2	1	10
No senator or representative, holding office under the United States, shall serve as .....	2	1	9
<i>Enumeration</i> . (See <i>Census</i> .) .....	1	2	2
<i>Executive Power</i> shall be vested in a President, .....	2	1	8
(See <i>President</i> .)			
<i>Exports</i> . (See <i>Tax</i> .)			
And imports, duties on by states to be payable into the treasury of the United States, .....	1	10	8
<i>Ex post facto Law</i> , none shall be passed, .....	1	9	7
<i>Habeas Corpus</i> , writ of, can only be suspended in cases of rebellion or invasion, .....	1	9	7
<i>House of Representatives</i> . (See <i>Representatives</i> .)			
<i>House</i> . (See <i>Senate</i> .)			
<i>Impeachment</i> , all civil officers liable to .....	2	4	11
Persons found guilty by, liable to indictment and punishment for the offence, .....	1	3	3
<i>Importation of Slaves</i> , until prohibited, a duty authorized on, after 1808, ...	1	9	7
<i>Judges</i> shall hold their offices during good behavior, .....	3	1	12
The compensations of, shall not be diminished during continuance in office, .....	3	1	12
<i>Judicial power</i> , vested in a Supreme Court and courts inferior, .....	3	1	12
The cases to which it extends, .....	3	2	12
<i>Judicial proceedings</i> , records, and acts of each state, are entitled to faith and credit in every other state, .....	4	1	13
<i>Jury trial</i> shall be held in the <i>state</i> where the crime shall have been committed, .....	3	2	12
If the crime have not been committed within a state, the trial shall be held at the place Congress shall have directed, .....	3	2	12
<i>Jury</i> , trial by, <i>secured</i> , in prosecutions for all <i>crimes</i> , except in cases of impeachment, .....	3	2	12
And in suits at common law, where the value in controversy shall exceed twenty dollars. 7th amendment, .....			19
<i>Law</i> , supreme, the Constitution, the laws under it, and treaties declared to be, .....	6	1	15
<i>Legislative powers</i> vested in Congress. (See <i>Congress</i> .) .....	1	1	1
<i>Money</i> shall be drawn from the treasury only by laws appropriating, .....	1	9	8
<i>Nobility</i> , titles of, shall not be granted by the United States, .....	1	9	8
<i>Officers</i> of the Senate, except their president, shall be chosen by the Senate, Civil, may be removed by impeachment, .....	2	4	11
<i>Orders</i> of one house, requiring the concurrence of the other. (See <i>Resolution</i> ), .....	1	7	5
<i>Persons held to labor or service</i> , their importation or migration into the United States may be prohibited after 1808, .....	1	9	"
Escaping from one state into another, shall be delivered up to those entitled to service, .....	4	2	13
<i>Powers</i> not delegated are reserved to the people, or, when not prohibited, to the states, 10th amendment, .....			20
Legislative. (See <i>Congress</i> .) .....	1	1	1
Executive. (See <i>President</i> .) .....	2	1	8
Judicial. (See <i>Judicial</i> .) .....	3	1	12
<i>Presents</i> , emoluments, office, or title from, a foreign king, prince, or state, to persons holding offices of profit or trust, prohibited, .....	1	9	8

<i>President of the United States, vested with the executive power, shall be chosen for four years,.....</i>	2	1	8
How elected, .....	2	1	9
Qualifications for, .....	2	1	10
Compensation of, .....	2	1	10
Shall take oath of office, .....	2	1	10
May be removed by impeachment, .....	2	4	11
<i>President of the United States, powers of—</i>			
Shall be commander-in-chief of army and navy, .....	2	2	10
May require the written opinions of the heads of departments, .....	2	2	10
May reprieve and pardon, .....	2	2	11
May make treaties, with consent of the Senate, .....	2	2	11
May appoint to office, with consent of the Senate,.....	2	2	11
Shall fill up vacancies happening during the recess of the Senate,.....	2	2	11
<i>President of the United States, duties of—</i>			
Shall give information to Congress, and recommend measures,.....	2	3	11
May convene both houses, or either house, .....	2	3	11
May adjourn them in case of disagreement,.....	2	3	11
Shall receive ambassadors and other public ministers,.....	2	3	11
Shall take care that the laws be faithfully executed, .....	2	3	11
Shall commission all officers of the United States,.....	2	3	11
In case of death, &c.. shall devolve on the Vice-President, and on such other officer as may be provided by law, .....	2	1	10
<i>Privileges and immunities of citizens of states. (See Citizens.)</i>			
<i>Property shall not be taken for public use without just compensation. 5th amendment,.....</i>			19
<i>Quorum, what shall be, for business,.....</i>	1	5	4
Of states, in choosing a President by the House of Representatives, ...	2	1	9
<i>Receipts and expenditures, accounts of, to be published,.....</i>	1	9	8
<i>Records. (See Judicial Proceedings.).....</i>	4	1	13
<i>Representatives, House of, composed of members chosen every second year, 1 2 1</i>			
Qualifications of the electors of its members,.....	1	2	1
Qualifications of members, .....	1	2	1
Shall not exceed one for 30,000, ...	1	2	2
Shall choose its speaker and other officers,.....	1	2	2
Shall have the power of impeachment, .....	1	2	2
Shall be the judge of the returns, elections, and qualifications of its members, .....	1	5	4
What shall be a quorum of,.....	1	5	4
Any number may adjourn, and compel the attendance of absentees, ...	1	5	4
May determine the rules of proceeding,.....	1	5	4
May punish or expel a member, .....	1	5	4
Shall keep a journal, and publish the same, except the parts requiring secrecy,.....	1	5	4
Shall not adjourn for more than three days, nor to any other place, without the consent of the Senate, .....	1	5	4
One fifth of present may require the yeas and nays, .....	1	5	4
Shall originate bills for raising revenue,.....	1	7	5
Shall receive a compensation, to be ascertained by law, .....	1	6	4
Privileged from arrest during attendance, and in going and returning, except in certain cases, .....	1	6	4
Shall not be questioned elsewhere for any speech or debate in the house,.....	1	6	4
Shall not be appointed to the offices created, or whose compensations shall have been increased, during the time for which they are elected, .....	1	6	4
Can, whilst serving, hold no office under the United States, .....	1	6	5
Shall not serve as primary electors of President,.....	2	1	9
<i>Representatives and direct taxes apportioned according to numbers, .....</i>			
<i>Representation of a state, vacancies in, supplied until a new election by the executive authority thereof, .....</i>	1	2	2
<i>Resolution, order, or vote, requiring the concurrence of both houses, (except for an adjournment,) shall be presented to the President, and undergo the formalities of bills,.....</i>			
	1	7	5
<i>Revenue. (See Vessels.)</i>			



*Rights of the citizen* declared to be —

Liberty of conscience in matters of religion, . . . . .	<i>Amendment,</i>	1	18
Freedom of speech and of the press, . . . . .		1	18
To assemble and petition, . . . . .		1	18
To keep and bear arms, . . . . .		2	18
To be exempt from the quartering of soldiers in any house, in time of peace, without the consent of the owner; and in time of war, unless prescribed by law, . . . . .		3	18
To be secure from unreasonable searches and seizures, . . . . .		4	19
To be free, except in the army, navy, and militia, from answering for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury, . . . . .		5	19
Not to be jeopardized twice for the same offence, . . . . .		5	19
Not to be compelled, in criminal cases, to be a witness against himself, . . . . .		5	19
Not to be deprived of life, liberty, or property, without due course of law, . . . . .		5	19
Private property shall not be taken for public use, without just compensation, . . . . .		5	19
That the accused, in criminal prosecutions, shall enjoy the right of a speedy public trial by an impartial jury of the vicinage; and the means necessary for his defence, . . . . .		6	19
That, in civil cases, facts tried by a jury shall only be reexamined according to the rules of the common law, . . . . .		7	19
That in suits at common law, where the value shall exceed twenty dollars, the right of trial by jury shall be preserved, . . . . .		7	19
That excessive bail shall not be required, excessive fines imposed, nor cruel or unusual punishments inflicted, . . . . .		8	20
That the enumeration of certain rights shall not operate constructively against the retained rights, . . . . .		9	20
<i>Rules,</i> each house shall determine its own, . . . . .		1	5 4

<i>Senate of the United States,</i> composed of two senators from each state, . . . .		1	3 2
How chosen, classed, and terms of service, . . . . .		1	3 2
Qualifications of members, thirty years of age, nine years a citizen, and an inhabitant of the state, . . . . .		1	3 3
Shall choose its officers, except the President, . . . . .		1	3 3
Shall be the judge of the elections, returns, and qualifications, of its members, . . . . .		1	5 4
What number shall be a quorum, . . . . .		1	5 4
Any number may adjourn, and compel attendance of absentees, . . . . .		1	5 4
May determine its rules, . . . . .		1	5 4
May punish or expel a member, . . . . .		1	5 4
Shall keep a journal, and publish the same, except parts requiring secrecy, . . . . .		1	5 4
Shall not adjourn for more than three days, nor to any other place, without the consent of the other house, . . . . .		1	5 4
One fifth of present may require the yeas and nays, . . . . .		1	5 4
May propose amendments to bills for raising revenue, . . . . .		1	7 5
Shall try impeachments, . . . . .		1	3 3
Their judgments only to extend to removal from office, and to disqualify for any other, . . . . .		1	3 3
Members shall receive a compensation, to be ascertained by law, . . . . .		1	6 4
Privileged from arrest, . . . . .		1	6 4
Shall not be questioned elsewhere for any speech or debate in the house, . . . . .		1	6 4
Shall not be appointed to offices of the United States created, or whose emoluments shall have been increased, during the terms for which they were elected, . . . . .		1	6 4
<i>Senators and Representatives,</i> elections of, how prescribed, . . . . .		1	4 3
<i>Slaves.</i> (See <i>Persons held to service.</i> ) . . . . .			7
<i>Senator</i> shall not be an elector of President, . . . . .		2	1 9
<i>Speaker,</i> how chosen, . . . . .		1	2 2
<i>States prohibited from</i> —			
Entering into any treaty, alliance, or confederation, . . . . .		1	10 8
Granting letters of marque, . . . . .		1	10 8
Coining money, . . . . .		1	10 8
Emitting bills of credit, . . . . .		1	10 8
Making any thing a tender but gold and silver coin, . . . . .		1	10 8

*States prohibited from —*

Passing bills of attainder, <i>ex post facto</i> laws, or laws impairing contracts, .....	1	10	8
Granting titles of nobility, .....	1	10	8
Laying imposts, or duties on imports and exports, for their own use, ..	1	10	8
Laying duties on tonnage without the consent of Congress, .....	1	10	8
Keeping troops or ships of war in time of peace, .....	1	10	8
Entering into any contract or agreement with another state, or a foreign power, .....	1	10	8
Engaging in war, unless invaded or in imminent danger, .....	1	10	8
<i>States</i> , new, may be admitted into the Union, .....	4	3	14
May be formed within the jurisdiction of others, or by the junction of two or more, with the consent of Congress and the legislatures concerned, .....	4	3	14
<i>States</i> , <i>judges of</i> , bound to consider the treaties, the Constitution, and the laws under it, as supreme, .....	6	1	15
<i>States</i> , majority of <i>all</i> , necessary to the choice of President, .....	2	1	9
<i>State</i> , each, to be guaranteed a republican form of government; protected against invasion; and secured, upon application, against domestic violence, .....	4	4	14
<i>Tax</i> , capitation or direct, shall be laid only in proportion to census, .....	1	9	7
<i>Tax</i> on exports from a state prohibited, .....	1	9	7
<i>Taxes</i> , direct, shall be apportioned according to representation, .....	1	2	2
<i>Territory</i> , or property belonging to the United States, Congress may make rules concerning, .....	4	3	14
<i>Test</i> , religious, shall not be required, .....	1		18
<i>Titles</i> . (See <i>Nobility</i> .) .....	1	9	8
<i>Title</i> , from foreign state. (See <i>Presents</i> .) .....	1	9	8
<i>Treason</i> , defined, .....	3	3	13
Two witnesses, or confession, necessary for conviction, .....	3	3	13
Punishment of, may be prescribed by Congress with one limitation, ..	3	3	13
<i>Treason</i> , or other crime, persons charged with in one state, fleeing into another, shall, on demand, be delivered up, .....	4	2	13
<i>Treasury</i> , money drawn from only by appropriation, .....	1	9	8
<i>Treaties</i> , the supreme law, .....	6	1	15
<i>Vacancies</i> happening during recess of the Senate may be filled temporarily by the President, .....	2	2	11
In representation in Congress, how filled, .....	1	2	2
<i>Vessels</i> to enter, clear, and pay duties in the <i>states</i> in which they arrive, or from which they depart, .....	1	9	7
<i>Vice-President of the United States —</i>			
To be President of the Senate, except when exercising the office of President of the United States, .....	1	3	3
How elected, .....	2	1	8
Qualifications for. 12th amendment, .....			20
Shall, in certain cases, discharge the duties of President, .....	2	1	10
May be removed by impeachment, .....	2	4	11
<i>Vote of one house</i> requiring concurrence of the other, .....	1	7	5
<i>Warrants</i> for searches and seizures, when and how they shall issue. 4th amendment, .....			19
<i>Witness</i> , in criminal cases, no one compelled to be against himself. 5th amendment, .....			19

# CONSTITUTION

OF THE

## UNITED STATES OF AMERICA.

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Copied and carefully compared with the original in the Department of State. Punctuation, paragraphs, and capital letters, same as said original.

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### CONSTITUTION.

*WE the people of the United States in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*

#### ARTICLE I.

##### SECTION I.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

##### SECTION II.

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

### SECTION III.

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so

that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments, until the next meeting of the Legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

The Senate shall choose their other officers, and also a President pro-tempore, in the absence of the Vice President or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments: when sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend farther than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

#### SECTION IV.

The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year.



## CONSTITUTION.

and such meeting shall be on the first Monday in December unless they shall by law appoint a different day.

### SECTION V.

Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither House, during the Session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

### SECTION VI.

The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under

the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time : and no person holding any office under the United States shall be a member of either House during his continuance in office.

## SECTION VII.

All bills for raising revenue shall originate in the House of Representatives ; but the Senate may propose, or concur with, amendments, as on other bills.

Every bill which shall have passed the House of Representatives, and the Senate, shall, before it become a law, be presented to the President of the United States ; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States ; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of

the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

## SECTION VIII.

The Congress shall have power To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States ; but all duties, imposts and excises shall be uniform throughout the United States ;

To borrow money on the credit of the United States ;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes ;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States ;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures ;

To provide for the punishment of counterfeiting the securities and current coin of the United States ;

To establish post offices and post roads ;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries ;

To constitute tribunals inferior to the supreme court ;

To define and punish piracies and felonies committed on the high seas and offences against the law of nations ;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water ;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years ;

To provide and maintain a navy ;

To make rules for the government and regulation of the land and naval forces ;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions ;

To provide for organizing, arming and disciplining, the



militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress ;

To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings ; — And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

#### SECTION IX.

The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year eighteen hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *Habeas Corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of

another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States. and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

#### SECTION X.

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money, emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law; or law impairing the obligation of contracts; or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay

### ARTICLE II.

#### SECTION I.

The executive power shall be vested in a President of the

United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows :

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress ; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each ; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot one of them for President ; and if no person have a majority, then from the five highest on the list the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes

the Senate shall choose from them by ballot the Vice-President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation: "*I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.*"

#### SECTION II.

The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United

States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: But the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

#### SECTION III.

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

#### SECTION IV.

The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment



for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

#### SECTION I.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

#### SECTION II.

The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority; to all cases — affecting ambassadors, other public ministers, and consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States; — between citizens of the same State, claiming lands under grants of different States, and between a State or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the supreme court shall have original jurisdiction. In all the other cases before-mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations; as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when

not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

## SECTION III.

Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

## ARTICLE IV.

## SECTION I.

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

## SECTION II.

The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

## SECTION III.

New States may be admitted by the Congress into this Union ; but no new State shall be formed or erected within the jurisdiction of any other State ; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislature of the States concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States ; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

## SECTION IV.

The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion ; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

## ARTICLE V.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress ; provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article ; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.



## ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States shall be bound, by oath or affirmation, to support this constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

G<sup>o</sup>. WASHINGTON,

PRESIDENT, AND DEPUTY FROM VIRGINIA.

NEW HAMPSHIRE

John Langdon,  
Nicholas Gilman.

MASSACHUSETTS.

Nathaniel Gorham,  
Rufus King.

CONNECTICUT.

William Samuel Johnson,  
Roger Sherman.

NEW YORK.

Alexander Hamilton

## NEW JERSEY.

William Livingston,  
David Brearley,  
William Patterson,  
Jonathan Dayton.

## PENNSYLVANIA.

Benjamin Franklin,  
Thomas Mifflin,  
Robert Morris,  
George Clymer,  
Thomas Fitzimons,  
Jared Ingersoll,  
James Wilson,  
Gouverneur Morris.

## DELAWARE.

George Reed,  
Gunning Bedford, jun.  
John Dickinson,  
Richard Bassett,  
Jacob Broom.

## MARYLAND.

James M'Henry,  
Daniel of St. Tho. Jenifer,  
Daniel Carrol.

## VIRGINIA.

John Blair,  
James Madison, jr.

## NORTH CAROLINA.

William Blount,  
Richard Dobbs Spaight,  
Hugh Williamson.

## SOUTH CAROLINA.

John Rutledge,  
Charles C. Pinckney,  
Charles Pinckney,  
Pierce Butler.

## GEORGIA.

William Few,  
Abraham Baldwin.

Attest:

WILLIAM JACKSON, *Secretary.*

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 IN CONVENTION.

MONDAY, *September 17, 1787.*

*Present*—The States of New Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

*Resolved*, That the preceding Constitution be laid before the United States in Congress assembled, and that it is the opinion of this Convention, that it should afterwards be submitted to a Convention of delegates, chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each Convention assenting to, and ratifying the same, should give notice thereof to the United States in Congress assembled.

*Resolved*, That it is the opinion of this Convention, that, as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution. That after such publication, the electors should be appointed, and the senators and representatives elected: That the electors should meet on the day fixed for the election of the President, and should transmit their votes certified, signed, sealed, and directed, as the Constitution requires,

to the Secretary of the United States in Congress assembled; that the senators and representatives should convene at the time and place assigned; that the senators should appoint a President of the Senate, for the sole purpose of receiving, opening, and counting, the votes for President; and that, after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution.

By the unanimous order of the Convention,

G<sup>o</sup>. WASHINGTON, *President*.

W. JACKSON, *Secretary*.

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## IN CONVENTION.

*September 17, 1787.*

SIR: We have now the honor to submit to the consideration of the United States, in Congress assembled, that Constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired that the power of making war, peace, and treaties; that of levying money, and regulating commerce; and the correspondent executive and judicial authorities, — should be fully and effectually vested in the general government of the Union; but the impropriety of delegating such extensive trust to one body of men is evident; hence results the necessity of a different organization.

It is obviously impracticable, in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and, on the present occasion, this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety — perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid, on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution which we now present is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state, is not perhaps to be expected; but each will doubtless consider that, had her interest alone been consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect, we have the honor to be, sir, your Excellency's most obedient and humble servants. By the unanimous order of the Convention.

G<sup>o</sup>. WASHINGTON, *President*  
*His Excellency, the President of Congress.*

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## THE UNITED STATES IN CONGRESS ASSEMBLED.

FRIDAY, *September 23, 1787.*

*Present* — New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia; and from Maryland, Mr. Ross.

Congress having received the report of the Convention, lately assembled in Philadelphia, —

*Resolved, unanimously,* That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to submit to a convention of delegates, chosen in each state by the people thereof, in conformity to the resolves of the Convention made and provided in that case.

CHARLES THOMPSON, *Secretary*

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## AMENDMENTS.

### ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

### ARTICLE II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

### ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

## ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

## ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

## ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be other-



wise reëxamined in any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

#### ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

#### ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign State.

#### ARTICLE XII.

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the

United States, directed to the President of the Senate. The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose, immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President: a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of President, shall be eligible to that of Vice-President of the United States.

## SKETCH OF ANTE-REVOLUTIONARY HISTORY.

[Condensed from Story's Commentaries.]

THE first permanent settlement made in America, under the auspices of England, was under a charter granted to Sir Thomas Gates and his associates, by James I. in the fourth year after his accession to the throne of England, (in 1606.) That charter granted to them the territories in America then commonly called Virginia, lying on the sea-coast between the 34th and the 45th degrees of north latitude, and the islands adjacent within 100 miles, which were not belonging to or possessed by any Christian prince or people. The associates were divided into two companies, one of which was required to settle between the 34th and 41st degrees of north latitude, and the other between the 38th and 45th degrees of north latitude, but not within 100 miles of the prior colony. By degrees, the name of Virginia was confined to the first or south colony. The second assumed the name of the Plymouth Company, from the residence of the original grantees; and New England was founded under their auspices. Each colony had exclusive propriety in all the territory within fifty miles from the first seat of their plantation.

The companies were authorized to engage, as colonists, any of the subjects of England who should be disposed to emigrate. All persons, being English subjects and inhabiting in the colonies, and every of their children born therein, were declared to have and possess all liberties, franchises, and immunities, within any other of the dominions of the crown, to all intents and purposes, as if they had been abiding and born within the realm of England, or any other dominions of the crown. The patentees were to hold the lands, &c., in the colony, of the king, his heirs and successors, as of the manor of East Greenwich in the county of Kent, in free and common soccage only, and not in *capite*; and were authorized to grant the same to the inhabitants of the colonies in such manner and form, and for such estates, as the council of the colony should direct.

In respect to political government, each colony was to be governed by a local council, appointed and removable at the pleasure of the crown, according to the royal instructions and ordinances from time to time promulgated. These councils were to be under the superior management and direction of another council sitting in England. A power was given to expel all intruders, and to lay a limited duty upon all persons trafficking with the colony; and a prohibition was imposed upon all the colonists against trafficking with foreign countries under the pretence of a trade from the mother country to the colonies.

The settlements in Virginia were earliest in point of date, and were fast advancing under a policy which subdivided the property among the settlers, instead of retaining it in common, and thus gave vigor to private enterprise. As the colony increased, the spirit of its members assumed more and more the tone of independence; and they grew restless and impatient for the privileges enjoyed under the government of their native country. To quiet this uneasiness, Sir George Yeardley, then the governor of the colony, in 1619 called a general assembly, composed of representatives from the various plantations in the colony, and permitted them to assume and exercise the high functions of legislation. This was

formed and established the first representative legislature that ever sat in America. And this example of a domestic parliament, to regulate all the internal concerns of the country, was never lost sight of, but was ever afterwards cherished, throughout America, as the dearest birthright of freemen. So acceptable was it to the people, and so indispensable to the real prosperity of the colony, that the council in England were compelled, in 1621, to issue an ordinance, which gave it a complete and permanent sanction. In imitation of the constitution of the British Parliament, the legislative power was lodged — partly in the governor, who held the place of the sovereign; partly in a council of state named by the company; and partly in an assembly composed of representatives freely chosen by the people. Each branch of the legislature might decide by a majority of voices, and a negative was reserved to the governor. But no law was to be in force, though approved by all three of the branches of the legislature, until it was ratified by a general court of the company, and returned under its seal to the colony. The ordinance further required the general assembly, as also the council of state, “to imitate and follow the policy of the form of government, laws, customs, and manner of trial and other administration of justice, used in the realm of England, as near as may be”

Charles I. adopted the notions, and followed out in its full extent the colonial system, of his father. He declared the colony to be a part of the empire annexed to the crown, and immediately subordinate to its jurisdiction. During the greater part of his reign, Virginia knew no other law than the will of the sovereign or his delegated agents; and statutes were passed, and taxes imposed, without the slightest effort to convene a colonial assembly. It was not until the murmurs and complaints, which such a course of conduct was calculated to produce, had betrayed the inhabitants into acts of open resistance to the governor, and into a firm demand of redress from the crown against his oppressions, that the king was brought to more considerate measures. He did not at once yield to their discontents; but, pressed as he was by severe embarrassments at home, he was content to adopt a policy which would conciliate the colony and remove some of its just complaints. He accordingly soon afterwards appointed Sir William Berkeley governor, with powers and instructions which breathed a far more benign spirit. He was authorized to proclaim that, in all its concerns, civil as well as ecclesiastical, the colony should be governed according to the laws of England. He was directed to issue writs for electing representatives of the people, who, with the governor and council, should form a general assembly clothed with supreme legislative authority; and to establish courts of justice, whose proceedings should be guided by the forms of the parent country. The rights of Englishmen were thus in a great measure secured to the colonists; and, under the government of this excellent magistrate, with some short intervals of interruption, the colony flourished with a vigorous growth for almost forty years. The revolution of 1688 found it, if not in the practical possession of liberty, at least with forms of government well calculated silently to cherish its spirit.

The laws of Virginia, during its colonial state, do not exhibit as many marked deviations, in the general structure of its institutions and civil polity, from those of the parent country, as those in the northern colonies. The common law was recognized as the general basis of its jurisprudence; and the legislature, with some appearance of boast, stated, soon



after the restoration of Charles II., that they had "endeavored, in all things, as near as the capacity and constitution of this country would admit, to adhere to those excellent and often refined laws of England, to which we profess and acknowledge all due obedience and reverence." The prevalence of the common law was also expressly provided for in all the charters successively granted, as well as by the royal declaration when the colony was annexed as a dependency to the crown. Indeed, there is no reason to suppose that the common law was not, in its leading features, very acceptable to the colonists; and in its general policy the colony closely followed in the steps of the mother country. Among the earliest acts of the legislature, we find the Church of England established as the only true church; and its doctrines and discipline were strictly enforced. All nonconformists were at first compelled to leave the colony; and a spirit of persecution was exemplified not far behind the rigor of the most zealous of the Puritans. The clergy of the established church were amply provided for by glebes and tithes, and other aids. Non-residence was prohibited, and a due performance of parochial duties peremptorily required. The laws, indeed, respecting the church, made a very prominent figure during the first fifty years of the colonial legislation. The first law allowing toleration to Protestant dissenters was in the year 1699, and merely adopts that of the statute of the 1st of William and Mary. Subject to this, the Church of England seems to have maintained an exclusive supremacy down to the period of the American Revolution. Marriages, except in special cases, were required to be celebrated in the parish church, and according to the rubric in the common-prayer book. The law of inheritance of the parent country was silently maintained down to the period of the American Revolution; and the distribution of intestate estates was closely fashioned upon the same general model. Devises also were regulated by the law of England; and no colonial statute appears to have been made on that subject until 1748, when one was enacted which contains a few deviations from it, probably arising from local circumstances. One of the most remarkable facts, in the juridical history of the colony, is the steady attachment of the colony to entails. By an act passed in 1705, it was provided, that estates tail should no longer be docted by fines or recoveries, but only by an act of the legislature in each particular case. And though this was afterwards modified, so as to allow entails to be destroyed in another manner, where the estate did not exceed £200 sterling in value, yet the general policy continued down to the American Revolution. In this respect, the zeal of the colony to secure entails, and perpetuate inheritances in the same family, outstripped that of the parent country. At a very early period the acknowledgment and registry of deeds and mortgages of real estate were provided for; and the non-registry was deemed a badge of fraud. The trial by jury, although a privilege resulting from their general rights, was guarded by special legislation. There was also an early declaration, that no taxes could be levied by the governor without the consent of the general assembly; and when raised, they were to be applied according to the appointment of the legislature. The burgesses also, during their attendance upon the assembly, were free from arrest. In respect to domestic trade, a general freedom was guaranteed to all the inhabitants to buy and sell to the greatest advantage, and all engrossing was prohibited. The culture of tobacco seems to have been a constant object of solicitude; and it was encouraged by a long succession of acts sufficiently evincing the



public feeling, and the vast importance of it to the prosperity of the colony. We learn from Sir William Berkeley's answers to the lord commissioners, in 1671, that the population of the colony was at that time about 40,000. that the restrictions of the navigation act, cutting off all trade with foreign countries, were very injurious to them, as they were obedient to the laws. And "this (says he) is the cause why no small or great vessels are built here; for we are most obedient to all laws, whilst the New England men break through, and men trade to any place that their interest leads them." This language is sufficiently significant of the restlessness of New England under these restraints upon its commerce. But his answer to the question respecting religious and other instruction in the colony would, in our times, create universal astonishment. — "I thank God (says he) there are no *free schools* nor *printing*; and I hope we shall not have these hundred years; for learning has brought disobedience, and heresy, and sects, into the world, and printing has divulged them, and libels against the best government. God keep us from both!" In 1680 a remarkable change was made in the colonial jurisprudence, by taking all judicial power from the assembly, and allowing an appeal from the judgments of the General Court to the king in council.

#### PLYMOUTH COLONIES.

On the 11th of November, 1620, those humble but fearless adventurers, the Plymouth colonists, before their landing, drew up and signed an original compact, in which, after acknowledging themselves subjects of the crown of England, they proceed to declare: "Having undertaken, for the glory of God, and the advancement of the Christian faith, and the honor of our king and country, a voyage to plant the first colony in the northern parts of Virginia, we do, by these presents, solemnly and mutually, in the presence of God and of one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid. And by virtue hereof do enact, constitute, and frame, such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience." This is the whole of the compact, and it was signed by forty-one persons.

It is, in its very essence, a pure democracy; and, in pursuance of it, the colonists proceeded soon afterwards to organize the colonial government, under the name of the Colony of New Plymouth, to appoint a governor and other officers, and to enact laws. The governor was chosen annually by the freemen, and had at first one assistant to aid him in the discharge of his trust. Four others were soon afterwards added, and finally the number was increased to seven. The supreme legislative power resided in, and was exercised by, the whole body of the male inhabitants — every freeman, who was a member of the church, being admitted to vote in all public affairs. The number of settlements having increased, and being at a considerable distance from each other, a house of representatives was established in 1639, the members of which, as well as all other officers, were annually chosen. They adopted the common law of England as the general basis of their jurisprudence,—varying it however, from time to time, by municipal regulations better adapted to their situation, or conforming more exactly to their stern notions of the absolute authority and universal obligation of the Mosaic institutions.

The Plymouth colonists acted, at first, altogether under the voluntary compact and association already mentioned. But they daily felt embarrassments from the want of some general authority, derived directly or indirectly from the crown, which should recognize their settlement and confirm their legislation. After several ineffectual attempts made for this purpose, they at length succeeded in obtaining, in January, 1629, a patent from the council established at Plymouth, in England, under the charter of King James, of 1620. This patent, besides a grant of the territory, upon the terms and tenure of the original patent of 1620, included an authority to the patentee (William Bradford) and his associates "to incorporate, by some usual or fit name and title, him or themselves, or the people there inhabiting under him or them, and their successors; from time to time to make orders, ordinances, and constitutions, as well for the better government of their affairs here, and the receiving or admitting any into their society, as also for the better government of his or their people, or his or their people at sea, in going thither or returning from thence; and the same to put or cause to be put in execution, by such officers and ministers as he or they shall authorize and depute; provided, that the said laws and orders be not repugnant to the laws of England, or the frame of government by the said president and council [of Plymouth Company] hereafter to be established."

The charter of 1629 furnished them, however, with the color of delegated sovereignty, of which they did not fail to avail themselves. They assumed under it the exercise of the most plenary executive, legislative, and judicial powers, with but a momentary scruple as to their right to inflict capital punishments. They were not disturbed in the free exercise of these powers, either through the ignorance or the connivance of the crown, until after the restoration of Charles II. Their authority under their charter was then questioned; and several unsuccessful attempts were made to procure a confirmation from the crown. They continued to cling to it, until, in the general shipwreck of charters, in 1684, theirs was overturned. An arbitrary government was then established over them, in common with the other New England colonies, and they were finally incorporated into a province, with Massachusetts, under the charter granted to the latter by William and Mary, in 1691.

After providing for the manner of choosing their governor and legislature, as above stated, their first attention seems to have been directed to the establishment of "free liberties of the free-born people of England." It was therefore declared, almost in the language of Magna Charta, that justice should be impartially administered unto all, not sold or denied; that no person should suffer "in respect to life, limb, liberty, good name, or estate, but by virtue or equity of some express law of the General Court, or the good and equitable laws of our nation suitable for us, in matters which are of a civil nature, (as by the court here hath been accustomed,) wherein we have no particular law of our own;" and none should suffer without being brought to answer by due course and process of law; that, in criminal and civil cases, there should be a trial by jury at all events upon a final trial on appeal, with the right to challenge for just cause; and, in capital cases, a peremptory right to challenge twenty jurors, as in England; that no party should be cast or condemned, unless upon the testimony of two sufficient witnesses, or other sufficient evidence, or circumstances, unless otherwise specially provided by law; that all persons of the age of twenty-one years, and of sound

memory, should have power to make wills and other lawful alienations of their estate, whether they were condemned, or excommunicated, or other; except that, in treason, their personal estate should be forfeited; but their real estate was still to be at their disposal. All processes were directed to be in the king's name. All trials in respect to land were to be in the county where it lay; and all personal actions, where one of the parties lived; and lands and goods were liable to attachment to answer the judgment rendered in any action. All lands were to descend according to the free tenure of lands of East Greenwich, in the county of Kent; and all entailed lands according to the law of England. All the sons were to inherit equally, except the eldest, who was to have a double share. If there were no sons, all the daughters were to inherit alike. Brothers of the whole blood were to inherit; and if none, then sisters of the whole blood. All conveyances of land were to be by deed only, acknowledged before some magistrate, and recorded in the public records. Among capital offences were enumerated, without any discrimination, idolatry, blasphemy, treason, murder, witchcraft, bestiality, sodomy, false witness, man-stealing, cursing or smiting father or mother, rape, wilful burning of houses and ships, and piracy; while certain other offences, of a nature quite as immoral and injurious to society, received a far more moderate punishment. Undoubtedly, a reverential regard for the Scriptures placed the crimes of idolatry, blasphemy, and false witness, and cursing and smiting father and mother, among the capital offences. And, as might well be presumed from the religious sentiments of the people, ample protection was given to the church; and the maintenance of a public orthodox ministry, and of public schools, was carefully provided for.

#### MASSACHUSETTS.

Application was made for a charter to King Charles, who, accordingly, in March, 1628, granted to the grantees and their associates the most ample powers of government. The charter confirmed to them the territory already granted by the council established at Plymouth, to be holden of the crown, as of the royal manor of East Greenwich, "in free and common soccage, and not in *capite*, nor by knight's service," yielding to the crown one fifth part of all ore of gold and silver, &c., with the exception, however, of any part of the territory actually possessed or inhabited by any other Christian prince or state, or of any part of it within the bounds of the southern colony (of Virginia) granted by King James. It also created the associates a body politic by the name of "The Governor and Company of the Massachusetts Bay in New England," with the usual powers of corporations. It provided, that the government should be administered by a governor, a deputy-governor, and eighteen assistants, from time to time elected out of the freemen of the company, which officers should have the care of the general business and affairs of lands and plantations, and the government of the people there; and it appointed the first governor, deputy-governor, and assistants, by name. It further provided, that a court or quorum, for the transaction of business, should consist of the governor, or the deputy-governor, and seven or more assistants, which should assemble as often as once a month for that purpose, and also that four great general assemblies of the company should be held in every year. In these great and general assemblies, (which were composed of the governor, deputy, assistants, and freemen present,) freemen were to be admitted free of the company, offi-

cers were to be elected, and laws and ordinances for the good and welfare of the colony made; "so as such laws and ordinances be not contrary or repugnant to the laws and statutes of this our realm of England." At one of those great and general assemblies held in Easter Term, the governor, deputy, and assistants, and other officers, were to be annually chosen by the company present. The company were further authorized to transport any subjects, or strangers willing to become subjects, of the crown, to the colony, and to carry on trade to and from it, without custom or subsidy, for seven years, and were to be free of all taxation of imports or exports to and from the English dominion for the space of twenty-one years, with the exception of a five per cent. duty. The charter further provided, that all subjects of the crown, who should become inhabitants, and their children born there, or on the seas going or returning, should enjoy all liberties and immunities of free and natural subjects, as if they, and every of them, were born within the realm of England. Full legislative authority was also given, subject to the restriction of not being contrary to the laws of England, as also for the imposition of fines and mulcts "according to the course of other corporations in England." Many other provisions were added, similar in substance to those found in the antecedent colonial charters of the crown.

The General Court, in their address to Parliament in 1646, in answer to the remonstrance of certain malcontents, used the following language: "For our government itself, it is framed according to our charter, and the fundamental and common laws of England, and carried on according to the same, (taking the words of eternal truth and righteousness along with them, as that rule by which all kingdoms and jurisdictions must render account of every act and administration in the last day,) with as bare an allowance for the disproportion between such an ancient, populous, wealthy kingdom, and so poor an infant, thin colony, as common reason can afford." And they then proceeded to show the truth of their statement, by drawing a parallel, setting down in one column the fundamental and common laws and customs of England, beginning with *Magna Charta*, and, in a corresponding column, their own fundamental laws and customs. Among other parallels, after stating that the supreme authority in England is in the high court of Parliament, they stated, "The highest authority here is in the General Court, both by our charter and by our own positive laws."

For three or four years after the removal of the charter, the governor and assistants were chosen, and all the business of the government was transacted, by the freemen assembled at large in a General Court. But the members having increased, so as to make a general assembly inconvenient, an alteration took place, and, in 1634, the towns sent representatives to the General Court. They drew up a general declaration, that the General Court alone had power to make and establish laws, and to elect officers; to raise moneys and taxes, and to sell lands; and that, therefore, every town might choose persons, as representatives, not exceeding two, who should have the full power and voices of all the freemen, except in the choice of officers and magistrates, wherein every freeman was to give his own vote. The system thus proposed was immediately established by common consent, although it is nowhere provided for in the charter. And thus was formed the second house of representatives (the first being in Virginia) in any of the colonies. At first, the whole of the magistrates (or assistants) and the representatives sat together, and as one body, in enacting all laws and or-



ders. But at length, in 1644, they separated into two distinct and independent bodies, each of which possessed a negative upon the acts of the other. This course of proceeding continued until the final dissolution of the charter.

After the fall of the first colonial charter, in 1684, Massachusetts remained for some years in a very disturbed state, under the arbitrary power of the crown. At length a new charter was, in 1691, granted to the colony by William and Mary; and it henceforth became known as a province, and continued to act under this last charter until after the revolution. The charter comprehended within its territorial limits all the old colony of the Massachusetts Bay, the colony of New Plymouth, the province of Maine, the territory called Acadia, or Nova Scotia, and all the lands lying between Nova Scotia and Maine; and incorporated the whole into one province by the name of the Province of the Massachusetts Bay in New England, to be holden as of the royal manor of East Greenwich, in the county of Kent. It confirmed all prior grants made of lands to all persons, corporations, colleges, towns, villages, and schools. It reserved to the crown the appointment of the governor, and lieutenant-governor, and secretary of the province, and all the officers of the Court of Admiralty. It provided for the appointment, annually, of twenty-eight counsellors, who were to be chosen by the General Court, and nominated the first board. The governor and counsellors were to hold a council for the ordering and directing of the affairs of the province. The governor was invested with the right of nominating, and, with the advice of the council, of appointing all military officers, and all sheriffs, provosts, marshals, and justices of the peace, and other officers of courts of justice. He had also the power of calling the General Court, and of adjourning, proroguing, and dissolving it. He had also a negative upon all laws passed by the General Court. The General Court was to assemble annually on the last Wednesday of May; and was to consist of the governor and council for the time being, and of such representatives, being freeholders, as should be annually elected by the freeholders of each town who possessed a freehold of forty shillings annual value, or other estate to the value of forty pounds. Each town was entitled to two representatives; but the General Court was, from time to time, to decide on the number which each town should send. The General Court was invested with full authority to erect courts, to levy taxes, and make all wholesome laws and ordinances, "so as the same be not repugnant or contrary to the laws of England;" and to settle annually all civil officers, whose appointment was not otherwise provided for. All laws, however, were to be sent to England for approbation or disallowance; and if disallowed, and so signified under the sign manual and signet, within three years, the same thenceforth to cease and become void; otherwise to continue in force according to the terms of their original enactment. The General Court was also invested with authority to grant any lands in the colonies of Massachusetts, New Plymouth, and province of Maine, with certain exceptions. The governor and council were invested with full jurisdiction as to the probate of wills and granting administrations. The governor was also made commander-in-chief of the militia, with the usual martial powers; but was not to exercise martial law without the advice of the council.

In case of his death, removal, or absence, his authority was to devolve on the lieutenant-governor, or, if his office was vacant, then on the council. With a view also to advance the growth of the province by en



couraging new settlements, it was expressly provided, that there should be "a liberty of conscience allowed in the worship of God to all Christians, except Papists;" and that all subjects inhabiting in the province, and their children born there, or on the seas going or returning, should have all the liberties and immunities of free and natural subjects, as if they were born within the realm of England. And, in all cases an appeal was allowed from the judgments of any courts of the province, to the king, in the privy council, in England, where the matter in difference exceeded three hundred pounds sterling. And, finally, there was a reservation of the whole admiralty jurisdiction to the crown; and of a right to all subjects to fish on the coasts.

After the grant of the provincial charter, in 1691, the legislation of the colony took a wider scope, and became more liberal, as well as more exact. At the very first session an act passed, declaring the general rights and liberties of the people, and embracing the principal provisions of Magna Charta on this subject. Among other things, it was declared, that no tax could be levied but by the General Court; that the trial by jury should be secured to all the inhabitants; and that all lands shall be free from escheats and forfeitures, except in cases of high treason. A *habeas corpus* act was also passed at the same session, but it seems to have been disallowed by the crown. Chalmers asserts that there is no circumstance, in the history of colonial jurisprudence, better established, than the fact that the *habeas corpus* act was not extended to the plantations until the reign of Queen Anne.

Lands were made liable to the payment of debts. The right of choosing their ministers was, after some struggles, secured in effect to the concurrent vote of the church and congregation in each parish, and the spirit of religious intolerance was in some measure checked, if not entirely subdued. Among the earliest acts of the provincial legislature, which were approved, were an act for the prevention of frauds and perjuries, conformable to that of Charles II.; an act for the observance of the Lord's day; an act for solemnizing marriages by a minister or a justice of the peace; an act for the support of ministers and schoolmasters; an act for regulating towns and counties; and an act for the settlement and distribution of the estates of persons dying intestate.

#### NEW HAMPSHIRE.

In November, 1629, Captain John Mason obtained a grant, from the council of Plymouth, of all that part of the mainland in New England, "lying upon the sea-coast, beginning from the middle part of the Merrimack River, and thence to proceed northwards along the sea-coast to Piscataqua River, and so forwards up within the said river, and to the farthest head thereof; and from thence north-westwards until threescore miles be finished from the first entrance of Piscataqua River; and also from Merrimack through the said river, and to the farthest head thereof, and so forward up into the lands westwards, until threescore miles be finished; and from thence to cross overland to the threescore miles and accounted from Piscataqua River, together with all islands and islets within five leagues' distance of the premises." This territory was afterwards called New Hampshire. The land so granted was expressly subjected to the conditions and limitations in the original patent.

A further grant was made to Mason by the council of Plymouth about the time of the surrender of their charter, (22d April, 1635,) "beginning

from the middle part of Naumkeag River, (Salem,) and from thence to proceed eastwards along the sea-coast to Cape Ann, and round about the same to Piscataqua Harbor; and then covering much of the land in the prior grant, and giving to the whole the name of New Hampshire.

In the exposition of its own charter, Massachusetts contended that its limits included the whole territory of New Hampshire; and, being at that time comparatively strong and active, she succeeded in establishing her jurisdiction over it, and maintained it with unabated vigilance forty years. The controversy was finally brought before the king in council; and in 1679, it was solemnly adjudged against the claim of Massachusetts. And it being admitted that Mason, under his grant, had no right to exercise any powers of government, a commission was, in the same year, issued by the crown for the government of New Hampshire.

New Hampshire continued down to the period of the revolution to be governed by commission as a royal province, and enjoyed the privilege of enacting her own laws through the instrumentality of a General Assembly, in the manner provided by the first commission.

The laws of New Hampshire, during its provincial state, partook very much the character of those of the neighboring province of Massachusetts.

#### MAINE.

In April, 1639, Sir Ferdinando Gorges obtained from the crown a confirmatory grant of all the land from Piscataqua to Sagadahock and the Kennebeck River, and from the coast into the northern interior one hundred and twenty miles; and it was styled "The Province of Maine." Of this province he was made lord palatine, with all the powers, jurisdiction, and royalties, belonging to the bishop of the county palatine of Durham; and the lands were to be holden as of the manor of East Greenwich. The charter contains a reservation of faith and allegiance to the crown, as having the supreme dominion; and the will and pleasure of the crown is signified, that the religion of the Church of England be professed, and its ecclesiastical government established, in the province. It also authorizes the palatine, with the assent of the greater part of the freeholders of the province, to make laws, not repugnant or contrary, but as near as conveniently may be, to the laws of England, for the public good of the province; and to erect courts of judicature for the determination of all civil and criminal causes, with an appeal to the palatine. But all the powers of government, so granted, were to be subordinate to the "power and *regement*," of the lords commissioners for foreign plantations for the time being.

A controversy between Massachusetts and the palatine, as to jurisdiction over the province, was brought before the privy council at the same time with that of Mason respecting New Hampshire, and the claim of Massachusetts was adjudged void. Before a final adjudication was had, Massachusetts had the prudence and sagacity, in 1677, to purchase the title of Gorges for a trifling sum; and thus, to the great disappointment of the crown, (then in treaty for the same object,) succeeded to it, and held it, and governed it as a provincial dependency until the fall of its own charter; and it afterwards, as we have seen, was incorporated with Massachusetts, in the provincial charter of 1691.

#### CONNECTICUT.

The colony of New Haven had a separate origin, and was settled by emigrants immediately from England, without any title derived from the

patentees. They began their settlement in 1638, purchasing their lands of the natives; and entered into a solemn compact of government. By it no person was admitted to any office, or to have any voice at any election, unless he was a member of one of the churches allowed in the dominion. There was an annual election of the governor, the deputy, magistrates, and other officers, by the freemen. The General Court consisted of the governor, deputy, magistrates, and two deputies from each plantation.

Other courts were provided for; and Hutchinson observes, that their laws and proceedings varied in very few circumstances from Massachusetts, except that they had no jury, either in civil or criminal cases. All matters of facts were determined by the court.

Soon after the restoration of Charles II. to the throne, the colony of Connecticut, aware of the doubtful nature of its title to the exercise of sovereignty, solicited, and in April, 1662, obtained, from that monarch, a charter of government and territory. The charter included within its limits the whole colony of New Haven; and as this was done without the consent of the latter, resistance was made to the incorporation, until 1665, when both were indissolubly united, and have ever since remained under one general government.

In 1685, a *quo warranto* was issued by King James against the colony, for the repeal of the charter. No judgment appears to have been rendered upon it; but the colony offered its submission to the will of the crown; and Sir Edmund Andros, in 1687, went to Hartford, and, in the name of the crown, declared the government dissolved. They did not, however, surrender the charter; but secreted it in an oak, which is still venerated; and immediately after the revolution of 1688, they resumed the exercise of all its powers. The successors of the Stuarts silently suffered them to retain it until the American Revolution, without any struggle or resistance. The charter continued to be maintained as a fundamental law of the state until the year 1818, when a new constitution of government was framed and adopted by the people. The laws of Connecticut were, in many respects, similar to those of Massachusetts.

#### RHODE ISLAND.

Roger Williams succeeded in obtaining, from the Earl of Warwick, in 1643, a charter of incorporation of Providence Plantations; and also, in 1644, a charter from the two houses of Parliament (Charles I. being then driven from his capital) for the incorporation of the towns of Providence, Newport, and Portsmouth, for the absolute government of themselves, but according to the laws of England.

Under this charter an assembly was convened in 1647, consisting of the collective freemen of the various plantations. The legislative power was vested in a court of commissioners of six persons, chosen by each of the four towns then in existence. The whole executive power seems to have been vested in a president and four assistants, who were chosen from the freemen, and formed the supreme court for the administration of justice.

They continued to act under their former government until the restoration of Charles II. That event seems to have given great satisfaction to these plantations. They immediately proclaimed the king, and sent an agent to England; and in July, 1663, after some opposition, they succeeded in obtaining a charter from the crown.

That charter incorporated the inhabitants, by the name of "the Governor and Company of the English Colony of Rhode Island and Providence Plantations, in New England, in America," conferring on them the usual powers of corporations.

Rhode Island enjoys the honor of having been, if not the first, at least one of the earliest, of the colonies, and indeed of modern states, in which the liberty of conscience and freedom of worship were boldly proclaimed among its fundamental laws.

In December, 1686, Sir Edmund Andros, agreeably to his orders, dissolved their government, and assumed the administration of the colony. The revolution of 1688 put an end to his power; and the colony immediately afterwards resumed its charter, and, though not without some interruptions, continued to maintain and exercise its powers down to the period of the American Revolution. It still continues to act under the same charter as a fundamental law, it being the only state in the Union which has not formed a new constitution of government.

One of the most memorable circumstances in the history of New England is the early formation and establishment of a confederation of the colonies for amity, offence and defence, and mutual advice and assistance. The project was agitated as early as 1637; but difficulties having occurred, the articles of union were not finally adopted until 1643. In the month of May of that year, the colonies of Massachusetts, Connecticut, New Haven, and Plymouth, formed a confederacy, by the name of the United Colonies of New England, and entered into a perpetual league of friendship and amity, for offence and defence, and mutual advice and succor. The charges of all wars, offensive and defensive, were to be borne in common, and according to an apportionment provided for in the articles; and in case of invasion of any colony, the others were to furnish a certain proportion of armed men for its assistance. Commissioners appointed by each colony were to meet, and determine all affairs of war and peace, leagues, aids, charges, &c., and to frame and establish agreements and orders for other general interests. This union, so important, and necessary for mutual defence and assistance, during the troubles which then agitated the parent country, was not objected to by King Charles II. on his restoration; and, with some few alterations, it subsisted down to 1686, when all the charters were prostrated by the authority of King James. Rhode Island made application to be admitted into this union, but was refused, upon the ground that the territory was within the limits of Plymouth colony. It does not appear that subsequently the colony became a party to it.

#### MARYLAND.

The province of Maryland was included originally in the patent of the Southern or Virginia Company; and, upon the dissolution of that company, it reverted to the crown. King Charles I., on the 20th June, 1632, granted it by patent to Cecilius Calvert, Lord Baltimore, the son of George Calvert, Lord Baltimore, to whom the patent was intended to be made; but he died before it was executed. By the charter, the king erected it into a province, and gave it the name of Maryland, in honor of his queen, Henrietta Maria, the daughter of Henry IV. of France, to be held of the crown of England, he, yearly, forever, rendering two Indian arrows. The territory was bounded by a right line, drawn from Watkins's Point, on Chesapeake Bay, to the ocean, on the east; thence to



that part of the estuary of Delaware, on the north, which lieth under the 40th degree, where New England is terminated; thence, in a right line, by the degree aforesaid, to the meridian of the fountain of Potomac; thence, following its course by the farther bank, to its confluence with the Chesapeake, and thence to Watkins's Point.

The first emigration made under the auspices of Lord Baltimore was in 1632, and consisted of about 200 gentlemen of considerable fortune and rank, and their adherents, being chiefly Roman Catholics. "He laid the foundation of this province (says Chalmers) upon the broad basis of security to property and of freedom of religion, granting, in absolute fee, fifty acres of land to every emigrant; establishing Christianity agreeably to the old common law, of which it is a part, without allowing preëminence to any particular sect. The wisdom of his choice soon converted a dreary wilderness into a prosperous colony."

The first legislative assembly of Maryland, held by the freemen at large, was in 1634—1635; but little of their proceedings is known. No acts appear to have been adopted until 1638—1639, when provision was made, in consequence of an increase of the colonists, for a representative assembly, called the House of Assembly, chosen by the freemen; and the laws passed by the Assembly, and approved by the proprietary, or his lieutenant, were to be of full force.

At the same session, an act, which may be considered as in some sort a Magna Charta, was passed, declaring, among other things, that "Holy Church, within this province, shall have all her rights and liberties; that the inhabitants shall have all their rights and liberties according to the great charter of England;" and that the goods of debtors, if not sufficient to pay their debts, shall be sold and distributed *pro rata*, saving debts to the proprietary. In 1649, an act was passed punishing blasphemy, or denying the Holy Trinity, with death, and confiscation of goods and lands.

Under the protectorate of Cromwell, Roman Catholics were expressly denied any protection in the province; and all others, "who profess faith in God by Jesus Christ, though differing in judgment from the doctrine, worship, or discipline, publicly held forth," were not to be restrained from the exercise of their religion. In 1696, the Church of England was established in the province; and in 1702, the liturgy, and rites, and ceremonies, of the Church of England, were required to be pursued in all the churches—with such toleration for dissenters, however, as was provided for in the act of William and Mary. And the introduction of the test and abjuration acts, in 1716, excluded all Roman Catholics from office.

It appears to have been a policy, adopted at no great distance of time after the settlement of the colony, to provide for the public registration of conveyances of real estates. In the silence of the statute book until 1715, it is presumed that the system of descents of intestates was that of the parent country. In that year an act passed which made the estate partible among all the children; and the system thus introduced has, in its substance, never since been departed from. Maryland too, like the other colonies, was early alive to the importance of possessing the sole power of internal taxation; and accordingly, in 1650, it was declared that no taxes should be levied without the consent of the General Assembly.

Upon the revolution of 1688, the government of Maryland was seized into the hands of the crown, and was not again restored to the proprietary until 1716. From that period no interruption occurred until the American Revolution.



## NEW YORK.

Charles II., soon after his restoration, instigated as much by personal antipathy as by a regard for the interest of the crown, determined to maintain his right, and in March, 1664, granted a patent to his brother, the Duke of York and Albany, by which he conveyed to him the region extending from the western bank of the Connecticut to the eastern shore of the Delaware, together with Long Island, and conferred on him the powers of government, civil and military.

A part of this tract was afterwards conveyed by the duke, by deed of lease and release, in June of the same year, to Lord Berkeley and Sir George Carteret. By this latter grant they were entitled to all the tract adjacent to New England, lying westward of Long Island, and bounded on the east by the main sea, and partly by Hudson's River, and upon the west by Delaware Bay or River, and extending southward to the main ocean as far as Cape May at the mouth of Delaware Bay, and to the northward as far as the northernmost branch of Delaware Bay or River, which is 41 degrees 40 minutes latitude; which tract was to be called by the name of Nova Cæsarea, or New Jersey. So that the territory then claimed by the Dutch as the New Netherlands was divided into the colonies of New York and New Jersey. In September, 1664, the Dutch colony was surprised by a British armament, which arrived on the coast, and was compelled to surrender to its authority.

No general assembly was called for several years; and the people having become clamorous for the privileges enjoyed by other colonists, the governor was, in 1682, authorized to call an assembly, which was empowered to make laws for the general regulation of the state, which, however, were of no force without the ratification of the proprietary. Upon the revolution of 1688, the people of New York immediately took side in favor of the Prince of Orange. From this era they were deemed entitled to all the privileges of British subjects, inhabiting a dependent province of the state.

As soon as the first royal governor arrived, in 1691, an assembly was called, which passed a number of important acts. Among others was an act virtually declaring their right of representation, and their right to enjoy the liberties and privileges of Englishmen by Magna Charta. It enacted, that the supreme legislative power should forever reside in a governor and council appointed by the crown, and the people by their representatives (chosen in the manner pointed out in the act) convened in General Assembly; that in all criminal cases, there should be a trial by a jury; that estates of females covert should be conveyed only by deed upon privy examination; that wills in writing, attested by three or more credible witnesses, should be sufficient to pass lands; that there should be no fines upon alienations, or escheats and forfeitures of lands, except in cases of treason; that no person should hold any office, unless upon his appointment he would take the oaths of supremacy, and the test prescribed by the act of Parliament; that no tax or talliage should be levied but by the consent of the General Assembly.

Perhaps New York was more close in the adoption of the policy and legislation of the parent country, before the revolution, than any other colony.

## NEW JERSEY

New Jersey, as we have already seen, was a part of the territory granted to the Duke of York, and was by him granted, in June, 1664, to

Lord Berkeley and Sir George Carteret, with all the rights, royalties, and powers of government which he himself possessed. The proprietors, for the better settlement of the territory, agreed, in February, 1664—1665, upon a constitution or concession of government.

This constitution continued until the province was divided, in 1676, between the proprietors. By that division East New Jersey was assigned to Carteret; and West New Jersey to William Penn and others, who had purchased of Lord Berkeley. Carteret then explained and confirmed the former concessions for the territory thus exclusively belonging to himself. The proprietors also of West Jersey drew up another set of concessions for the settlers within that territory. They contain very ample privileges to the people.

Whether these concessions became the general law of the province seems involved in some obscurity. There were many difficulties and contests for jurisdiction between the governors of the Duke of York and the proprietors of the Jerseys; and these were not settled until after the duke, in 1680, finally surrendered all right to both by letters patent granted to the respective proprietors. In 1681, the governor of the proprietors of West Jersey, with the consent of the General Assembly, made a frame of government, embracing some of the fundamentals in the former concessions. There was to be a governor and council, and a General Assembly of representatives of the people. The General Assembly had the power to make laws, to levy taxes, and to appoint officers. Liberty of conscience was allowed, and no persons rendered incapable of office in respect of their faith and worship. West Jersey continued to be governed in this manner until the surrender of the proprietary government, in 1702.

Carteret died in 1679, and, being sole proprietor of East Jersey, by his will he ordered it to be sold for payment of his debts; and it was accordingly sold to William Penn and eleven others, who were called the Twelve Proprietors. They afterwards took twelve more into the proprietaryship; and to the twenty-four thus formed, the Duke of York, in March, 1682, made his third and last grant of East Jersey. Very serious dissensions soon arose between the two provinces themselves, as well as between them and New York, which banished moderation from their councils, and threatened the most serious calamities. A *quo warranto* was ordered by the crown, in 1686, to be issued against both provinces. East Jersey immediately offered to be annexed to West Jersey, and to submit to a governor appointed by the crown. Soon afterwards the crown ordered the Jerseys to be annexed to New England, and the proprietors of East Jersey made a formal surrender of its patent, praying only for a new grant, securing their right of soil. Before this request could be granted, the revolution of 1688 took place, and they passed under the allegiance of a new sovereign.

From this period, both of these provinces were in a state of great confusion and distraction; and remained so, until the proprietors of both made a formal surrender of all their powers of government, but not of their lands, to Queen Anne, in April, 1702. The queen immediately reunited both provinces into one province, and by commission appointed a governor over them.

#### PENNSYLVANIA.

Pennsylvania was originally settled by different detachments of planters under various authorities, Dutch, Swedes, and others, which at different

times occupied portions of land on South or Delaware River. The ascendancy was finally obtained over these settlements by the governors of New York, acting under the charter of 1664, to the Duke of York.

It continued in a feeble state until the celebrated William Penn, in March, 1681, obtained a patent from Charles II. by which he became the proprietary of an ample territory, which, in honor of his father, was called Pennsylvania. The boundaries described in the charter were on the east by Delaware River, from twelve miles distant northwards of New Castle town, to the 43d degree of north latitude, if the said river doth extend so far northward; but if not, then by said river so far as it doth extend; and from the head of the river, the eastern bounds are to be determined by a meridian line to be drawn from the head of said river unto the said 43d degree of north latitude. The said lands to extend westward five degrees in longitude, to be computed from the said eastern bounds; and the said lands to be bounded on the north by the beginning of the 43d degree of north latitude; and on the south by a circle drawn at twelve miles' distance from New Castle, northward and westward, to the beginning of the 40th degree of northern latitude; and then by a straight line westward to the limits of the longitude above mentioned. The charter constituted Penn the true and absolute proprietary of the territory thus described.

It authorized the proprietary, and his heirs and successors, to make all laws for raising money and other purposes, with the assent of the freemen of the country, or their deputies assembled for the purpose. But "the same laws were to be consonant to reason, and not repugnant or contrary, but, as near as conveniently may be, agreeable to law, and statutes and rights, of this our kingdom of England." The laws for the descent and enjoyment of lands, and succession to goods, and of felonies, were to be according to the course in England, until altered by the Assembly. All laws were to be sent to England within five years after the making of them, and, if disapproved of by the crown within six months, to become null and void. It also authorized the proprietary to appoint judges and other officers; to pardon and reprieve criminals; to establish courts of justice, with a right of appeal to the crown from all judgments; to create cities and other corporations; to erect ports, and manors, and courts baron in such manors. Liberty was allowed to subjects to transport themselves and their goods to the province; and to import the products of the province into England; and to export them from thence within one year, the inhabitants observing the acts of navigation, and all other laws in this behalf made. It was further stipulated that the crown should levy no tax, custom, or imposition, upon the inhabitants, of their goods, unless by the consent of the proprietary or Assembly, "or by act of Parliament in England."

Among other things truly honorable to the memory of this great man, Penn, is the tender regard and solicitude which, on all occasions, he manifested for the rights of the Indians, and the duties of the settlers towards them.

A new frame of government was, with the consent of the General Assembly, established in 1683. In 1692, Penn was deprived of the government of Pennsylvania by William and Mary; but it was again restored to him in the succeeding year. A third frame of government was established in 1696. This again was surrendered, and a new, final charter of government was, in October, 1701, with the consent of the

General Assembly, established, under which the province continued to be governed down to the period of the American Revolution.

In the legislation of Pennsylvania, early provision was made (in 1683) for the descent and distribution of intestate estate, by which it was to be divided among all the children, the eldest son having a double share; and this provision was never afterwards departed from.

#### DELAWARE.

After Penn had become proprietary of Pennsylvania, he purchased of the Duke of York, in 1682, all his right and interest in the territory afterwards called the Three Lower Counties of Delaware, extending from the south boundary of the province, and situated on the western side of the River and Bay of Delaware to Cape Henlopen, beyond or south of Lewistown; and the three counties took the names of New Castle, Kent, and Sussex. At this time they were inhabited principally by Dutch and Swedes, and seem to have constituted an appendage to the government of New York.

In the same year, with the consent of the people, an act of union with the province of Pennsylvania was passed, and an act of settlement of the frame of government in a General Assembly, composed of deputies from the counties of Delaware and Pennsylvania. By this act the three counties were, under the name of the Territories, annexed to the province; and were to be represented in the General Assembly, governed by the same laws, and to enjoy the same privileges, as the inhabitants of Pennsylvania. Difficulties soon afterwards arose between the deputies of the province and those of the territories; and, after various subordinate arrangements, a final separation took place between them, with the consent of the proprietary, in 1703. From that period down to the American Revolution, the territories were governed by a separate legislature of their own, pursuant to the liberty reserved to them by a clause in the original charter or frame of government.

#### NORTH AND SOUTH CAROLINA.

In March, 1662, (April, 1663,) Charles II. made a grant, to Lord Clarendon and others, of the territory lying on the Atlantic Ocean, and extending from the north end of the island, called Hope Island, in the South Virginian seas, and within 36 degrees of north latitude; and to the west as far as the South Seas; and so respectively as far as the River Mathias, upon the coast of Florida, and within 31 degrees of north latitude; and so west in a direct line to the South Seas; and erected it into a province, by the name of Carolina, to be holden as the manor of East Greenwich, in Kent, in free and common soccage, and not in *capite*, or by knight service, subject immediately to the crown, as a dependency, forever.

The grantees were created absolute lords proprietaries, saving the faith, allegiance, and supreme dominion of the crown, and invested with as ample rights and jurisdictions as the Bishop of Durham possessed in his palatine diocese. The charter seems to have been copied from that of Maryland, and resembles it in many of its provisions.

It further required that all laws should "be consonant to reason, and, as near as may be conveniently, agreeable to the laws and customs of 'his



our kingdom of England." And it declared that the inhabitants and their children, born in the province, should be denizens of England, and entitled to all the privileges and immunities of British-born subjects.

In 1665, the proprietaries obtained from Charles II. a second charter with an enlargement of boundaries. It recited the grant of the former charter, and declared the limits to extend north and eastward as far as the north end of Currituck River or Inlet, upon a straight westerly line to Wyoanok Creek, which lies within or about 36 degrees 30 minutes of north latitude; and so west in a direct line as far as the South Seas; and south and westward as far as the degree of 29, inclusive, of northern latitude; and so west in a direct line as far as the South Seas.

Several detached settlements were made in Carolina, which were at first placed under distinct temporary governments: one was in Albemarle another to the south of Cape Fear. Thus various independent and separate colonies were established, each of which had its own Assembly, its own customs, and its own laws—a policy which the proprietaries had afterwards occasion to regret, from its tendency to enfeeble and distract the province.

In the year 1669, the proprietaries, dissatisfied with the systems already established within the province, signed a fundamental constitution for the government thereof, the object of which is declared to be, "that we may establish a government agreeable to the monarchy, of which Carolina is a part, that we may avoid making too numerous a democracy." This constitution was drawn up by the celebrated John Locke.

It provided that the oldest proprietary should be the palatine, and the next oldest should succeed him. Each of the proprietaries was to hold a high office. The rules of precedency were most exactly established. Two orders of hereditary nobility were instituted, with suitable estates, which were to descend with the dignity. The provincial legislature, dignified with the name of *parliament*, was to be biennial, and to consist of the proprietaries or their deputies, of the nobility, and of representatives of the freeholders chosen in districts. They were all to meet in one apartment, (like the ancient Scottish Parliament,) and enjoy an equal vote. No business, however, was to be proposed, until it had been debated in the grand council, (which was to consist of the proprietaries and forty-two counsellors,) whose duty it was to prepare bills. No act was of force longer than until the next biennial meeting of the Parliament, unless ratified by the palatine and a quorum of the proprietaries. All the laws were to become void at the end of a century, without any formal repeal. The Church of England (which was declared to be the only true and orthodox religion) was alone to be allowed a public maintenance by Parliament; but every congregation might tax its own members for the support of its own minister. Every man of seventeen years of age was to declare himself of some church or religious profession, and to be recorded as such; otherwise he was not to have any benefit of the laws. And no man was to be permitted to be a freeman of Carolina, or have any estate or habitation, who did not acknowledge a God, and that God is to be publicly worshipped. In other respects there was a guaranty of religious freedom. There was to be a public registry of all deeds and conveyances of lands, and of marriages and births. Every freeman was to have "absolute power and authority over his negro slaves, of what opinion or religion soever." No civil or criminal cause was to be tried but by a jury of the peers of the party; but the verdict of a majority was binding. With a view to prevent



unnecessary litigation, it was (with a simplicity which at this time may excite a smile) provided that "it shall be a base and vile thing to plead for money or reward;" and that, "since multiplicity of comments, as well as of laws, have great inconveniences, and serve only to obscure and perplex, all manner of comments and expositions on any part of these fundamental constitutions, or on any part of the common or statute law of Carolina, are absolutely prohibited.'

After a few years' experience of its ill arrangements, and its mischievous tendency, the proprietaries, upon the application of the people, (in 1693,) abrogated the constitution, and restored the ancient form of government. Thus perished the labors of Mr. Locke; and thus perished a system, under the administration of which, it has been remarked, the Carolinians had not known one day of real enjoyment, and that introduced evils and disorders which ended only with the dissolution of the proprietary government!

There was, at this period, a space of three hundred miles between the southern and northern settlements of Carolina; and, though the whole province was owned by the same proprietaries, the legislation of the two great settlements had been hitherto conducted by separate and distinct assemblies — sometimes under the same governor, and sometimes under different governors. The legislators continued to remain distinct down to the period when a final surrender of the proprietary charter was made to the crown, in 1729. The respective territories were designated by the name of North Carolina and South Carolina, and the laws of each obtained a like appellation. Cape Fear seems to have been commonly deemed, in the commissions of the governor, the boundary between the two colonies.

At a little later period, (1732,) for the convenience of the inhabitants, the province was divided; and the divisions were distinguished by the names of North Carolina and South Carolina.

The form of government conferred on Carolina, when it became a royal province, was in substance this: It consisted of a governor and council appointed by the crown, and an Assembly chosen by the people; and these three branches constituted the legislature. The governor convened, prorogued, and dissolved the legislature, and had a negative upon the laws, and exercised the executive authority. He possessed also the powers of the court of chancery, of the admiralty, of supreme ordinary, and of appointing magistrates and militia officers. All laws were subject to the royal approbation or dissent, but were in the mean time in full force.

On examining the statutes of South Carolina, a close adherence to the general policy of the English laws is apparent. As early as the year 1712, a large body of the English statutes were, by express legislation, adopted as part of its own code; and all English statutes respecting allegiance, all the test and supremacy acts, and all acts declaring the rights and liberties of the subjects, or securing the same, were also declared to be in force in the province. All and every part of the common law, not altered by these acts, or inconsistent with the constitutions, customs, and laws of the province, was also adopted as part of its jurisprudence.

In respect to North Carolina, there was an early declaration of the legislature, (1715,) conformably to the charter, that the common law was, and should be, in force in the colony. All statute laws for maintaining the royal prerogative and succession to the crown; and all such laws made for the establishment of the church, and laws made for the indul-

gence to Protestant dissenters; and all laws providing for the privileges of the people, and security of trade; and all laws for the limitation of actions, and for preventing vexatious suits, and for preventing immorality and fraud, and confirming inheritances and titles of land, were declared to be in force in the province. The policy thus avowed was not departed from down to the period of the American Revolution; and the laws of descents, and the registration of conveyances, in both the Carolinas, was a silent result of their common origin and government.

#### GEORGIA

In the same year in which Carolina was divided, (1732,) a project was formed for the settlement of a colony upon the unoccupied territory between the Rivers Savannah and Alatomaha. The object of the projectors was to strengthen the province of Carolina, to provide a maintenance for the suffering poor of the mother country, and to open an asylum for the persecuted Protestants in Europe; and, in common with all the other colonies, to attempt the conversion and civilization of the natives. Upon application, George II. granted a charter to the company, (consisting of Lord Percival and twenty others, among whom was the celebrated Oglethorpe,) and incorporated them by the name of the "Trustees for establishing the Colony of Georgia, in America." The charter conferred the usual powers of corporations in England, and authorized the trustees to hold any territories, &c., in America, for the better settling of a colony.

The charter further granted to the corporation seven undivided parts of all the territories lying in that part of South Carolina which lies from the northern stream of a river, there called the Savannah, all along the sea-coast, to the southward, unto the southernmost stream of a certain other great river, called the Alatomaha, and westward from the heads of the said rivers respectively in direct lines to the South Seas, to be held as of the manor of Hampton Court, in Middlesex, in free and common soccage, and not in *capite*. It then erected all the territory into an independent province, by the name of *Georgia*. It authorized the trustees, for the term of twenty-one years, to make laws for the province, "not repugnant to the laws and statutes of England," subject to the approbation or disallowance of the crown, and after such approbation to be valid. The affairs of the corporation were ordinarily to be managed by the common council. It was further declared, that all persons born in the province should enjoy all the privileges and immunities of natural-born subjects in Great Britain. Liberty of conscience was allowed to all inhabitants in the worship of God, and a free exercise of religion to all persons except Papists. The corporation were also authorized, for the term of twenty-one years, to erect courts of judicature for all civil and criminal causes, and to appoint a governor, judges, and other magistrates. The registration of all conveyances of the corporation was also provided for. The governor was to take an oath to observe all the acts of Parliament relating to trade and navigation, and to obey all royal instructions pursuant thereto. The governor of South Carolina was to have the chief command of the militia of the province; and goods were to be imported and exported without touching at any port in South Carolina. At the end of the twenty-one years, the crown was to establish such form of government in the province, and such method of making laws therefor, as in its pleasure should be deemed meet; and all officers should be then appointed by the crown.

It continued to languish, until at length the trustees, wearied with their own labors, and the complaints of the people, in June, 1751, surrendered the charter to the crown. Henceforward it was governed as a royal province, enjoying the same liberties and immunities as other royal provinces; and in process of time it began to flourish, and at the period of the American Revolution it had attained considerable importance among the colonies.

In respect to its ante-revolutionary jurisprudence, the same system prevailed as in the Carolinas, from which it sprang. Intestate estates descended according to the course of the English law.

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## GRADUAL APPROACHES TOWARDS INDEPENDENCE.

THE first Congress of delegates, chosen and appointed by the several colonies and provinces in North America, to take into consideration the actual situation of the same, and the differences subsisting between them and Great Britain, was held at Carpenter's Hall, in the city of Philadelphia, on the 5th of September, 1774. On that occasion, delegates attended from New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, from the city and county of New York and other counties in the province of New York, New Jersey, Pennsylvania, New Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, and from South Carolina. Peyton Randolph was unanimously elected president of the Congress, and Charles Thomson unanimously chosen secretary.

On the 6th of September, Congress adopted rules in debating and determining questions. According to these, 1. Each colony or province had one vote. 2. No person could speak more than twice on the same point, without leave. 3. No question could be determined the day on which it was agitated and debated, if any one of the colonies desired the determination to be postponed to another day. 4. The door was to be kept shut during the time of business, and the members to consider themselves under the strongest obligations of honor to keep the proceedings secret, until the majority should direct them to be made public. At the same time, a committee was appointed to state the rights of the colonies in general, the several instances in which those rights had been violated or infringed, and the means most

proper to be pursued for obtaining a restoration of them. A committee was also appointed to examine and report the several statutes which affected the trade and manufactures of the colonies.

The Congress was opened by prayer, a reverential formality that was subsequently observed; and, by an order of the directors of the Library Company of Philadelphia, of the 31st of August preceding, the delegates were allowed the use of such of the books of that institution as they might have occasion for during their sitting.

On the 14th of September, delegates from North Carolina took their seats. On the 19th of September, it was unanimously resolved that the Congress request the merchants and others, in the several colonies, not to send to Great Britain any orders for goods, and to direct the execution of all orders already sent to be delayed or suspended until the sense of the Congress on the means to be taken for the preservation of the liberties of America should be made public.

On the 24th of September, Congress resolved that the delegates would confine themselves to the consideration of such rights as had been infringed by acts of the British Parliament after the year 1763, postponing the further consideration of the general state of American rights to a future day.

On the 27th of September, the Congress unanimously resolved that, from and after the 1st of December, 1774, there should be no importation into British America, from Great Britain or Ireland, of any goods, wares, or merchandize, exported therefrom; and that they should not be used or purchased if imported after that day. On the 30th of September, it was further resolved that, from and after the 10th of September, 1775, the exportation of all merchandise, and every commodity whatsoever, to Great Britain, Ireland, and the West Indies, ought to cease, unless the grievances of America should be redressed before that time.

On the 6th of October, it was resolved to exclude from importation, after the 1st of December following, molasses, coffee, or pimento, from the British plantations, or from Dominica; wines from Madeira and the Western Islands; and foreign indigo. In consequence of a letter received from the Committee of Correspondence, at Boston, on the 6th of October, Congress, on the 7th, resolved to appoint a committee to prepare a letter to General Gage, representing



that the town of Boston, and province of Massachusetts Bay, were considered, by all America. as suffering in the common cause, for their noble and spirited opposition to oppressive acts of Parliament, calculated to deprive the American people of their most sacred rights and privileges, &c. On the 8th of October, it was resolved that the Congress approve the opposition of the inhabitants of the Massachusetts Bay to the execution of the obnoxious acts of Parliament; and if the same should be attempted to be carried into execution by force, in such case all America ought to support them in their opposition; and on the 11th of October, the letter of remonstrance to General Gage, ordered on the 7th, was brought in and signed by the president. On the 11th, likewise, a memorial to the people of British America, stating the necessity of adhering to the measures of Congress, and an address to the people of Great Britain, were unanimously resolved on. On the 14th of October, Congress made a declaration, and framed resolves, relative to the rights and grievances of the colonies.

On the same day, Congress unanimously resolved, “that the respective colonies are entitled to *the common law of England*, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage according to the course of that law.” They further resolved, “that they were entitled to the benefit of such of the English statutes as existed at the time of their colonization, and which they have, by experience, respectively found to be applicable to their several and local circumstances.” They also resolved, that their ancestors, at the time of their immigration, were “entitled to all the rights, liberties, and immunities, of free and natural-born subjects within the realms of England.”

On the 20th day of October, the non-importation, non-consumption, and non-exportation agreement was adopted and signed by the Congress. This agreement contained a clause to discontinue the slave trade, and a provision not to import East India tea from any part of the world. In the article respecting non-exportations, the sending of rice to Europe was excepted. In general, the association expressed a determination to suppress luxury, encourage frugality, and promote domestic manufactures. The agreement was dated the 24th of October. On the 21st, the address to the people of Great Britain was approved, as was the memorial to the



inhabitants of the British colonies, on the same day. Both these state papers contain a representation of the grievances, and a justification of the conduct, of the colonies. It was determined that an address should be prepared to the people of Quebec, in like manner, and letters be sent to the colonies of St. John's, Nova Scotia, Georgia, and East and West Florida. On the 22d of October, Peyton Randolph being unable to attend, on account of indisposition, Henry Middleton was chosen to supply his place as president of Congress. On the same day, a letter to the colonies of St. John's, &c., was reported, approved, and signed. It recommended an immediate adoption of the measures pursued by the Congress. On the 25th of October, a petition to the king was adopted, and was ordered to be enclosed in a letter to the several colony agents, in order that the same might be by them presented to his majesty, which letter was approved and signed by the president, on the day following. This petition recited the grievances of the colonies, and asked for a redress of them. On the 26th of October, the address to the inhabitants of Quebec was adopted and signed. It set forth the rights of the British colonists, breathed a spirit of sympathy in suffering, and invited a spirit of union in resistance. The Congress was then dissolved, having, on the 22d of October, passed a resolution recommending delegates to meet again at Philadelphia, on the 10th of May, 1775.

On the 10th of May, 1775, according to the recommendation of the preceding Congress, the delegates from the same several colonies, with the exception of Rhode Island, assembled at the State House, in Philadelphia; when Peyton Randolph was, a second time, unanimously elected president, and Charles Thomson unanimously chosen secretary. On the 13th of May, Lyman Hall was admitted to a seat in Congress, as a delegate from the parish of St. John's, in the colony of Georgia; but not considering himself as the representative of that colony, he declined voting, except on occasions when the Congress did not vote by colonies. On the 15th of May, Lemuel Ward, a delegate from Rhode Island, appeared and took his seat. On the 16th of May, Congress resolved itself into a committee of the whole, on the state of America. On the 17th of May, it was unanimously resolved that all exportations to Quebec, Nova Scotia, the Island of St. John's, Newfoundland, Georgia, (except

the parish of St. John's,) and to East and West Florida, immediately cease, and that no provision of any kind, or other necessaries, be furnished to the British fisheries on the American coasts, until it be otherwise determined by the Congress. On the 24th of May, Peyton Randolph, then president of Congress, being under a necessity of returning home, the chair became vacant, and John Hancock was unanimously elected president. On the 26th of May, Congress resolved, that the colonies be immediately put in a state of defence; that a fresh petition to the king, with a view to reconcile differences, be prepared; and that a letter to the people of Canada be reported. This letter was approved the day following, and ordered to be signed by the president. It solicits the friendship of the Canadians, calls upon them to assert their rights, and exhorts them against hostilities. On the 29th of May, a committee was appointed to consider the best means of establishing posts for conveying letters and intelligence through the continent.

On the 2d of June, Congress resolved, that no bill of exchange, draught, or order, of any officers in the British army or navy, their agents or contractors, be received, or negotiated, or any money supplied to them, by any person in America; that no provisions, or necessaries of any kind, be furnished or supplied to or for the use of the British army or navy in the colony of Massachusetts Bay; and that no vessel employed in transporting British troops to America, or from one part of North America to another, or warlike stores, or provisions for said troops, be freighted or furnished with provisions, or other necessaries, until further orders from the Congress. On the 3d of June, committees were appointed to draw a petition to the king, and to prepare addresses to the inhabitants of Great Britain and the people of Ireland; to bring in the draught of a letter to the inhabitants of Jamaica; and to bring in an estimate of the money necessary to be raised by the colonies. On the 7th of June, it was resolved, that the 20th day of July following should be observed throughout the twelve United Colonies, as a day of humiliation, fasting, and prayer. On the 9th of June, in consequence of a letter from the Convention of Massachusetts Bay, which had been previously under consideration, Congress resolved, that the governor and lieutenant-governor of that colony were to be considered as absent, and their offices

vacant ; and it was recommended to the Provincial Convention to write letters to the inhabitants of the several places which were entitled to representation in Assembly, requesting them to choose such representatives ; and that the Assembly, when chosen, should elect counsellors, and that such Assembly, or Council, should exercise the powers of government, until a governor of his majesty's appointment would consent to govern the colony according to its charter. On the 10th of June, several resolutions were passed for the collection of saltpetre and sulphur, and the manufacture of gunpowder. On the 14th of June, Congress resolved to raise several companies of riflemen, by enlistment, for one year, to serve in the American Continental army, established the pay of the officers and privates, and appointed a committee to prepare rules and regulations for the government of the army. On the 15th of June, it was resolved, that a general should be appointed to command all the Continental forces, raised, or to be raised, for the defence of American liberty ; and, proceeding to the choice of a general, by ballot, George Washington was unanimously elected. On the preceding day, it was resolved to appoint major-generals, brigadier-generals, and other officers, necessary for the organization of a regular army. These warlike measures were the result of continued deliberations on the state of America, and the consequence of the military proceedings of the British at Lexington, in the province of Massachusetts Bay, on the 19th of April preceding ; of the burning of Charlestown, near Boston ; and of the various indications, on the part of Great Britain, of an intention to compel the colonies to submit by force of arms. Several military steps had been previously taken by the colonists, among which were the occupation of the posts of Crown Point and Ticonderoga. A commission for George Washington was made out, and signed by the president of Congress, on the 19th of June, in the following words : —

*“ In Congress.* The delegates of the United Colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, New Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, North Carolina, and South Carolina, — To George Washington, Esquire: We, reposing especial trust and confidence in your patriotism, conduct, and fidelity, do, by these presents, constitute and appoint you to be general and commander-in-chief of the army of the United Colonies, and of all the forces raised or to be raised by them, and of all

others who shall voluntarily offer their service, and join the said army for the defence of the American liberty, and for repelling every hostile invasion thereof; and you are hereby vested with full power and authority to act as you shall think for the good and welfare of the service. And we do hereby strictly charge and require all officers and soldiers under your command to be obedient to your orders, and diligent in the exercise of their several duties. And we do also enjoin and require you to be careful in executing the great trust reposed in you, by causing strict discipline and order to be observed in the army, and that the soldiers are duly exercised, and provided with all convenient necessaries. And you are to regulate your conduct, in every respect, by the rules and discipline of war, (as herewith given you,) and punctually to observe and follow such orders and directions, from time to time, as you shall receive from this or a future Congress of the said United Colonies, or a committee of Congress, for that purpose appointed. This commission to continue in force until revoked by this or a future Congress. By order of the Congress. John Hancock, *President*. Dated Philadelphia, June 19, 1775. Attested, Charles Thomson, *Secretary*."

The original of this commission has been preserved in the department of state, at Washington city. Congress at the same time resolved, that they would maintain, assist, and adhere to George Washington, with their lives and fortunes, in the same cause. On the 22d of June, it was resolved to emit a sum not exceeding two millions of Spanish milled dollars, in bills of credit, for the redemption of which the twelve confederated colonies were pledged. On the 24th of June, a resolution was entered into for devising ways and means to put the militia of America in a proper state for defence. On the 30th of June, Congress adopted rules and regulations for the government of the army. On the same day, the committee for Indian affairs was directed to prepare proper talks to the several tribes, for engaging the continuance of their friendship and neutrality.

On the 6th of July, a committee, previously appointed for that purpose, brought in a declaration by the representatives of the United Colonies of North America, setting forth the causes and necessity of their taking up arms, which was to be published by General Washington, upon his arrival at the camp before Boston. On the 8th of July, a petition to the king was signed by the members of Congress present, stating the merits of their claims, and soliciting the royal interposition for an accommodation of differences on just principles. An address to the inhabitants of Great Britain was at this time framed, justifying the measures which had been taken by the colonists, and invoking the sympathy and forbear-



ance of their British brethren. A letter was also prepared, and signed by the president, to the lord mayor, aldermen, and livery of London, thanking them for the friendly disposition they had shown to the rights of America. On the 20th of July, Congress was informed, by a letter from the Convention of Georgia, that that colony had acceded to the general association, and had appointed delegates to attend the Congress. On the 25th of July, an address to the Assembly of Jamaica was agreed to, generally stating the grievances of the colonies, and thanking the Assembly for its good intentions. An additional sum, to the value of one million of Spanish milled dollars, was, on the same day, ordered to be struck in bills. On the 26th of July, Congress authorized the appointment of a postmaster-general for the United Colonies, to hold his office at Philadelphia, with power to appoint as many deputies as he might deem proper and necessary; and, under his direction, a line of posts was ordered from Falmouth, in New England, to Savannah, in Georgia, with as many cross posts as the postmaster-general should think fit. Benjamin Franklin was, by a unanimous vote, appointed to the office. On the 28th of July, an address to the people of Ireland was adopted, setting forth the motives and object of the colonists. On the 31st of July, Congress agreed to a report, which declared a resolution of the British House of Commons, of February 20, 1775, commonly called Lord North's motion, inadmissible as the basis of reconciliation. The resolution referred to proposed to transfer the right of taxing the colonies, under certain restrictions, to the colonial assemblies. The terms it offered were rejected, among other reasons, because, in the opinion of the Congress, the proposition imported only a suspension of the mode, and not a renunciation of the pretended right to tax the colonies. At the same time, it was made the duty of a committee, in the recess of Congress, to inquire into the cheapest and easiest methods of making salt in the country, and to make inquiry after virgin lead and leaden ore, &c.

On the 1st of August, Congress adjourned to the 5th of September, 1775, having first passed a resolution declaring the non-exportation and non-importation association to comprise the islands of Jersey, Guernsey, Sark, Alderney, and Man, and every European island and settlement within the



British dominions, as well as all the West India islands, British and foreign, to whatever state, power, or prince belonging, or by whomsoever governed; and also Somers's Islands, Bahama Islands, Berbicia, and Surinam, on the Main, and every island and settlement within the latitude of the southern line of Georgia and the equator.

On the 5th of September, 1775, agreeably to adjournment, Congress again convened, but did not form a quorum to do business until the 13th, when delegates from Georgia appeared, produced their credentials, and took their seats. On the 25th September, Congress appointed a committee of accounts, or claims, consisting of one member from each of the United Colonies, to whom all accounts against the Continent were to be referred, and who were to examine and report the same for payment.

On the 6th of October, a resolution was passed, recommending to the several provisional assemblies or conventions, and councils or committees of safety, to arrest and secure every person, in their respective colonies, whose going at large might, in their opinion, endanger the safety of the colony, or the liberties of America. On the 13th of October, Congress ordered two armed vessels to be fitted out. On the 26th of October, Congress, having had under consideration the state of the trade of the United Colonies, resolved that it should be recommended to the several provincial assemblies, conventions, or councils of safety, to export to the foreign West Indies, on account and risk of their respective colonies, as much provisions, or other produce, except horned cattle, sheep, hogs, and poultry, as they might deem necessary, for the importation of arms, ammunition, sulphur, and saltpetre. On the 30th of October, two more armed vessels were directed to be fitted for sea.

On the 1st of November, the exportation of rice was prohibited to Great Britain, Ireland, or the islands of Jersey, Guernsey, Sark, Alderney, or Man, or any other European island or settlement within the British dominions. On the 3d of November, Congress resolved, that it should be recommended to the Provincial Convention of New Hampshire, which had applied for advice, to call a full and free representation of the people, and to establish such a form of government as would best promote the happiness of the people, &c., during the continuance of the dispute between Great

Britain and the colonies. A similar resolution was entered into in relation to South Carolina. On the 8th of November, a draft of instructions was agreed to for R. R. Livingston, Robert Treat Paine, and J. Langdon, who were appointed to proceed to Ticonderoga, to consult with General Schuyler on the necessary operations in that quarter, and to exert their utmost endeavors to induce the Canadians to accede to a union with the colonies; to form, from their several parishes, a provincial convention; and to send delegates to Congress. At this time, likewise, all letters to and from the delegates of the United Colonies, during the sessions of Congress, were authorized to pass and be carried free of postage, the members having engaged upon honor not to frank or endorse any letters but their own. On the 10th of November, a similar privilege, without exception, was extended to all letters to and from the commander-in-chief of the Continental army, or the chief commander in the army, in the northern military department. On the same day, it was resolved to raise two battalions of marines. On the 11th of November, a resolution was entered into, authorizing the repair of the fortifications, &c., of Quebec, in case it should be taken from the British. On the 16th of November, it was resolved that no member of Congress should absent himself from that body without leave; and a rule was adopted, that every member should remain in his seat whilst any paper was reading or question was putting. On the 23d of November, Congress authorized the consideration of a plan for carrying on a trade with the Indians. On the 25th of November, resolutions were passed, directing seizures, and the capture, under commissions obtained from the Congress, together with the condemnation, of British vessels employed in a hostile manner against the colonies; the mode of trial and of condemnation was pointed out, and the shares of the prizes were apportioned. On the 28th of November, Congress adopted rules for the regulation of the navy of the United Colonies. On the 29th of November, Congress was informed of General Montgomery's having, with the Continental troops, taken possession of Montreal on the 12th of that month. The same day an emission of bills of credit was resolved on, to the amount of three millions of dollars.

On the 2d of December, an exchange of prisoners was

declared proper. On the 4th of December, it was recommended to the Convention of Virginia, if found necessary, to establish a liberal form of government in that colony, during the continuance of the dispute between Great Britain and the colonies, having first called a full and free representation of the people to determine upon it. This recommendation was occasioned by Lord Dunmore's proclamation, declaring his intention to execute martial law in that province. On the 6th of December, Congress expressed a determination to retaliate for any undue severities exercised towards persons favoring, aiding, or abetting, the cause of American liberty. This was produced by a proclamation of rebellion, issued from the court of St. James on the 23d of August, 1775. On the 13th of December, a report was sanctioned for fitting out a naval armament, to consist, in the whole, of thirteen ships, five of thirty-two guns. On the 22d of December, officers were appointed to command the armed vessels, other legislative provisions, respecting pay, &c., having been previously made.

On the 6th of January, 1776, a regulation was adopted relative to the division of prizes and prize-money, taken by armed vessels, among officers and men. On the 9th of January, it was resolved that no postage should be paid for any letters to or from private soldiers, while engaged in actual service in defence of the United Colonies, and that they should be franked by some person authorized for that purpose. On the 11th of January, Congress ordained that persons refusing to receive the Continental bills of credit in payment, or who should obstruct and discourage the currency or circulation thereof, should, on conviction, be deemed, published, and treated, as an enemy of the country, and be precluded from all trade and intercourse with the inhabitants of the colonies. On the 27th of January, resolutions were entered into for carrying on trade with the Indians, and for procuring the necessary supply of goods for that purpose. On the 30th of January, it was resolved that no apprentice should be enlisted within the colonies of New Jersey, Pennsylvania, the counties on Delaware, or Maryland, as a soldier in the army or navy of the United Colonies, without the previous consent of his master or mistress, in writing; all those enlisted in a contrary manner were ordered to be discharged, on application, and a reimbursement of expenses incurred

for enlistment ; and every person under the age of twenty-one years, who had enlisted in the army or navy, was, within twenty-four hours thereafter, entitled to his discharge on refunding the amount of money and articles with which he had been supplied. It was, at the same time, recommended to creditors, who had claims against persons in the army or navy for less than thirty-five dollars, not to arrest the debtors until their terms of service had expired.

On the 17th of February, a standing committee of five was appointed for superintending the treasury, and Congress directed the emission of the further sum of four million dollars in bills of credit. On the 27th of February, the middle and southern colonies were divided into two military departments, in the following manner: New York, New Jersey, Pennsylvania, the lower counties on Delaware, and Maryland, to constitute one; Virginia, North Carolina, South Carolina, and Georgia, to constitute another; the former to be put under the command of a major-general, two brigadier-generals, and a proper staff; the latter under a major-general, three brigadier-generals, with a suitable staff.

On the 9th of March, it was resolved, that no oath, by way of test, should be exacted of the inhabitants of the colonies by military officers. On the 14th of March, a resolution was passed recommending a general disarming of disaffected persons throughout the colonies. On the 16th of March, the 17th of May following was appointed a day of general humiliation, fasting, and prayer. On the 21st of March, Congress recommended to the several provincial assemblies to exert their utmost endeavors to promote the culture of hemp, flax, and cotton, and the growth of wool, in the United Colonies; to take the earliest measures for erecting and establishing, in each colony, a society for the improvement of agriculture, arts, manufactures, and commerce; and forthwith to consider of the ways and means of introducing and improving the manufactures of duck, sail-cloth, and steel. On the 23d of March, resolutions were adopted authorizing the fitting out of private armed vessels, to cruise against the enemies of the United Colonies.

On the 1st of April, a resolution was passed for the institution and establishment of a treasury office of accounts, to be kept in the place where Congress might hold its sessions, and to be under the direction and superintendence of the



standing committee for the treasury. It was resolved, moreover, that an auditor-general, and a competent number of assistants and clerks, should be appointed, for stating, arranging, and keeping of the public accounts. On the 2d of April, the form of a commission for private armed vessels was agreed upon. On the 3d of April, instructions to the commanders of private armed vessels were considered and adopted. They authorized the capture of all ships and other vessels belonging to the inhabitants of Great Britain, on the high seas, or between high-water and low-water marks, except vessels bringing persons who intended to settle and reside in the United Colonies, or conveying arms, ammunition, and warlike stores, for the use of such inhabitants of America as were friendly to the cause of liberty. On the 6th of April, several resolutions of a commercial nature were agreed to, authorizing exportations and importations, with certain exceptions, of the merchandise and products from and to countries other than such as were subject to the king of Great Britain; and it was recommended to the assemblies of the different colonies that officers should be appointed to superintend the execution of such regulations as might be made concerning trade. On this occasion, the importation of slaves was expressly prohibited. On the 16th of April, it was recommended to the council of safety of Maryland to cause the person and papers of Governor Eden to be seized and secured, in consequence of a belief that he had been carrying on a correspondence with the British ministry highly dangerous to the liberties of America. On the 17th of April, a bounty of eight dollars was allowed to the owner of every vessel for each able seaman, imported and discharged in American ports, over and above the ship's company. On the 19th of April, letters directed to any general in the Continental service, commanding in a separate department, were allowed to be carried free of postage.

On the 6th of May, it was resolved that ten millions of dollars be raised, for the purpose of carrying on the war, for the year 1776; and measures were taken for treating with the Indians. On the 9th of May, a resolution passed for the emission of five millions of dollars in bills of credit, in part of the ten millions of dollars voted for the service of the year 1776. On the 10th of May, it was resolved to recommend to the respective assemblies and conventions of the United



Colonies, where no government sufficient to the exigencies of their affairs had been established, to adopt such a government as should, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and of America in general. A preamble to this resolution, agreed to on the 15th of May, stated the intention to be totally to suppress the exercise of every kind of authority under the British crown.

On the 7th of June, certain resolutions respecting independency were moved and seconded. On the 10th of June, it was resolved, that a committee should be appointed to prepare a declaration to the following effect: "That the United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown; and that all political connection between them and the state of Great Britain, is, and ought to be, totally dissolved." On the preceding day, it was determined that the committee for preparing the declaration should consist of five; and they were chosen accordingly, in the following order: Mr. Jefferson, Mr. J. Adams, Mr. Franklin, Mr. Sherman, and Mr. R. R. Livingston. On the 11th of June, a resolution was passed to appoint a committee to prepare and digest the form of a Confederation to be entered into between the colonies, and another committee to prepare a plan of treaties to be proposed to foreign powers. On the 12th of June, it was resolved, that a committee of Congress should be appointed, by the name of a board of war and ordnance, to consist of five members. On the 25th of June, a declaration of the deputies of Pennsylvania, met in provincial conference, expressing their willingness to concur in a vote declaring the United Colonies free and independent states, was laid before Congress, and read. On the 28th of June, the committee appointed to prepare a declaration of independence brought in a draft, which was read and ordered to lie on the table.

On the 1st of July, a resolution of the Convention of Maryland, passed the 28th of June, authorizing the deputies of that colony to concur in declaring the United Colonies free and independent states, was laid before Congress and read. On the same day, Congress resolved itself into a committee of the whole, to take into consideration the resolution respecting independency. On the 2d of July, a reso-

lution declaring the colonies free and independent states, was adopted. A declaration to that effect was, on the same and the following days, taken into further consideration. Finally, on the 4th of July, the Declaration of Independence was agreed to, signed, and directed to be sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the Continental troops, and to be proclaimed in each of the United States, and at the head of the army.

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[*In the WRITINGS of THOMAS JEFFERSON, Vol. I. p. 10, the following proceedings, on the adoption of the Declaration of Independence, are disclosed:—*

In Congress, FRIDAY, June 7, 1776. The delegates from Virginia moved, in obedience to instructions from their constituents, that the Congress should declare that these United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; that measures should be immediately taken for procuring the assistance of foreign powers, and a confederation be formed to bind the colonies more closely together.

The house being obliged to attend, at that time, to some other business, the proposition was referred to the next day, when the members were ordered to attend punctually at ten o'clock.

SATURDAY, June 8. They proceeded to take it into consideration, and referred it to a committee of the whole, into which they immediately resolved themselves, and passed that day and Monday, the 10th, in debating on the subject.

It was argued by Wilson, Robert R. Livingston, E. Rutledge, Dickinson, and others, —

That, though they were friends to the measures themselves, and saw the impossibility that we should ever again be united with Great Britain, yet they were against adopting them at this time :

That the conduct we had formerly observed was wise and proper now, of deferring to take any capital step till the voice of the people drove us into it :

That they were our power, and without them our declarations could not be carried into effect :

That the people of the middle colonies (Maryland, Delaware, Pennsylvania, the Jerseys, and New York) were not yet ripe for bidding adieu to British connection, but that they were fast ripening, and, in a short time, would join in the general voice of America :

That the resolution entered by this house on the 15th of May, for suppressing the exercise of all powers derived from the crown, had shown, by the ferment into which it had thrown these middle colonies, that they had not yet accommodated their minds to a separation from the mother country :

That some of them had expressly forbidden their delegates to consent to such a declaration, and others had given no instructions, and consequently no powers to give such consent :

That, if the delegates of any particular colony had no power to declare such colony independent, certain they were, the others could not declare it for them ; the colonies being as yet perfectly independent of each other :

That the Assembly of Pennsylvania was now sitting above stairs ; their Convention would sit within a few days ; the Convention of New York was now sitting ; and those of the Jerseys and Delaware counties would meet on the Monday following ; and it was probable these bodies would take up the question of independence, and would declare to their delegates the voice of their state :

That, if such a declaration should now be agreed to, these delegates must retire, and possibly their colonies might secede from the Union :

That such a secession would weaken us more than could be compensated by any foreign alliance :

That, in the event of such a division, foreign powers would either refuse to join themselves to our fortunes, or, having us so much in their power as that desperate declaration would place us, they would insist on terms proportionably more hard and prejudicial :

That we had little reason to expect an alliance with those to whom alone, as yet, we had cast our eyes :

That France and Spain had reason to be jealous of that rising power, which would one day certainly strip them of all their American possessions :

That it was more likely they should form a connection with the British court, who, if they should find themselves unable otherwise to extricate themselves from their difficulties, would agree to a partition of our territories, restoring Canada to France, and the Floridas to Spain, to accomplish for themselves a recovery of these colonies :

That it would not be long before we should receive certain information of the disposition of the French court, from the agent whom we had sent to Paris for that purpose :

That, if this disposition should be favorable, by waiting the event of the present campaign, which we all hoped would be successful, we should have reason to expect an alliance on better terms :

That this would in fact work no delay of any effectual aid from such ally, as, from the advance of the season and distance of our situation, it was impossible we could receive any assistance during this campaign :

That it was prudent to fix among ourselves the terms on which we would form alliance, before we declared we would form one at all events :

And that, if these were agreed on, and our declaration of independence ready by the time our ambassador should be prepared to sail, it would be as well as to go into that declaration at this day.

On the other side, it was argued by J. Adams, Lee, Wythe, and others, that no gentleman had argued against the policy or the right of separation from Britain, nor had supposed it possible we should ever renew our connection ; that they had only opposed its being now declared :

That the question was not whether, by a declaration of independence, we should make ourselves what we are not ; but whether we should declare a fact which already exists :

That, as to the people or Parliament of England, we had always been independent of them, their restraints on our trade deriving efficacy from

our acquiescence only, and not from any rights they possessed of imposing them; and that, so far, our connection had been federal only, and was now dissolved by the commencement of hostilities:

That, as to the king, we had been bound to him by allegiance, but that this bond was now dissolved by his assent to the late act of Parliament, by which he declares us out of his protection, and by his levying war on us — a fact which had long ago proved us out of his protection, it being a certain position in law, that allegiance and protection are reciprocal, the one ceasing when the other is withdrawn:

That James II. never declared the people of England out of his protection; yet his actions proved it, and the Parliament declared it:

No delegates then can be denied, or ever want, a power of declaring an existent truth:

That the delegates from the Delaware counties having declared their constituents ready to join, there are only two colonies, Pennsylvania and Maryland, whose delegates are absolutely tied up; and that these had, by their instructions, only reserved a right of confirming or rejecting the measure:

That the instructions from Pennsylvania might be accounted for from the time in which they were drawn, near a twelvemonth ago, since which the face of affairs has totally changed:

That, within that time, it had become apparent that Britain was determined to accept nothing less than a *carte blanche*, and that the king's answer to the lord mayor, aldermen, and common council of London, which had come to hand four days ago, must have satisfied every one of this point:

That the people wait for us to lead the way:

That *they* are in favor of the measure, though the instructions given by some of their *representatives* are not:

That the voice of the representatives is not always consonant with the voice of the people, and that this is remarkably the case in these middle colonies:

That the effect of the resolution of the 15th of May has proved this, which, raising the murmurs of some in the colonies of Pennsylvania and Maryland, called forth the opposing voice of the freer part of the people, and proved them to be the majority even in these colonies:

That the backwardness of these two colonies might be ascribed, partly to the influence of proprietary power and connections, and partly to their having not yet been attacked by the enemy:

That these causes were not likely to be soon removed, as there seemed no probability that the enemy would make either of these the seat of this summer's war:

That it would be vain to wait either weeks or months for perfect unanimity, since it was impossible that all men should ever become of one sentiment on any question:

That the conduct of some colonies, from the beginning of this contest, had given reason to suspect it was their settled policy to keep in the rear of the confederacy, that their particular prospect might be better, even in the worst event:

That, therefore, it was necessary for those colonies, who had thrown themselves forward, and hazarded all from the beginning, to come forward now also, and put all again to their own hazard:

That the history of the Dutch revolution, of whom three states only



confederated at first, proved that a secession of some colonies would not be so dangerous as some apprehended :

That a *declaration of independence* alone could render it consistent with European delicacy for European powers to treat with us, or even to receive an ambassador from us :

That, till this, they would not receive our vessels into their ports, nor acknowledge the adjudications of our courts of admiralty to be legitimate, in cases of capture of British vessels :

That though France and Spain may be jealous of our rising power, they must think it will be much more formidable with the addition of Great Britain, and will therefore see it their interest to prevent a coalition ; but should they refuse, we shall be but where we are ; whereas, without trying, we shall never know whether they will aid us or not :

That the present campaign may be unsuccessful, and therefore we had better propose an alliance while our affairs wear a hopeful aspect :

That to wait the event of this campaign will certainly work delay, because, during this summer, France may assist us effectually, by cutting off those supplies of provisions, from England and Ireland, on which the enemy's armies here are to depend ; or by setting in motion the great power they have collected in the West Indies, and calling our enemy to the defence of the possessions they have there :

That it would be idle to lose time in settling the terms of alliance, till we had first determined we would enter into alliance :

That it is necessary to lose no time in opening a trade for our people, who will want clothes, and will want money too, for the payment of taxes :

And that the only misfortune is, that we did not enter into alliance with France six months sooner — as, besides opening her ports for the vent of our last year's produce, she might have marched an army into Germany, and prevented the petty princes there from selling their unhappy subjects to subdue us.

It appearing, in the course of these debates, that the colonies of New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina, were not yet matured for falling from the parent stem, but that they were first advancing to that state, it was thought most prudent to wait awhile for them, and to postpone the final decision to July 1st ; but, that this might occasion as little delay as possible, a committee was appointed to prepare a Declaration of Independence. The committee were John Adams, Dr. Franklin, Roger Sherman, Robert R. Livingston, and Thomas Jefferson. Committees were also appointed, at the same time, to prepare a plan of confederation for the colonies, and to state the terms proper to be proposed for foreign alliance. The committee for drawing the Declaration of Independence desired T. Jefferson to do it. It was accordingly done, and, being approved by them, he reported it to the house on Friday, the 23th of June, when it was read, and ordered to lie on the table. On Monday, the 1st of July, the house resolved itself into a committee of the whole, and resumed the consideration of the original motion made by the delegates of Virginia, which, being again debated through the day, was carried in the affirmative by the votes of New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, Maryland, Virginia, North Carolina, and Georgia. South Carolina and Pennsylvania voted against it. Delaware had but two members present, and they were divided. The delegates from New York declared they



were for it themselves, and were assured their constituents were for it; but that their instructions having been drawn near a twelvemonth before, when reconciliation was still the general object, they were enjoined by them to do nothing which should impede that object. They therefore thought themselves not justifiable in voting on either side, and asked leave to withdraw from the question; which was given them. The committee rose, and reported their resolution to the house. Mr. Edward Rutledge, of South Carolina, then requested the determination might be put off to the next day, as he believed his colleagues, though they disapproved of the resolution, would then join in it for the sake of unanimity. The ultimate question, whether the house would agree to the resolution of the committee, was accordingly postponed to the next day, when it was again moved, and South Carolina concurred in voting for it. In the mean time, a third member had come post from the Delaware counties, and turned the vote of that colony in favor of the resolution. Members of a different sentiment attending that morning from Pennsylvania also, her vote was changed, so that the whole twelve colonies, who were authorized to vote at all, gave their voices for it; and, within a few days, (July 9,) the Convention of New York approved of it, and thus supplied the void occasioned by the withdrawing of her delegates from the vote.

Congress proceeded, the same day, to consider the Declaration of Independence, which had been reported, and laid on the table the Friday preceding, and on Monday referred to a committee of the whole. The pusillanimous idea that we had friends in England worth keeping terms with still haunted the minds of many. For this reason, those passages which conveyed censures on the people of England were struck out, lest they should give them offence. The clause, too, reprobating the enslaving the inhabitants of Africa, was struck out in complaisance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it. Our northern brethren also, I believe, felt a little tender under those censures; for, though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others. The debates, having taken up the greater parts of the 2d, 3d, and 4th days of July, were, on the evening of the last, closed; the Declaration was reported by the committee, agreed to by the House, and signed by every member present, except Mr. Dickinson.]

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*In Congress, July 4, 1776.*

## THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly, all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world. He has refused his assent to laws the most wholesome and necessary for the public good. He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws, for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the repository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise, the state remaining, in the mean time, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states, for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance. He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:—For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:—For cutting off our trade with all parts of the world:—For imposing taxes on us without our consent:—For depriving us, in many cases, of the benefits of trial by jury:—For transporting us beyond seas to be tried for pretended offences—For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:—For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:—For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection and waging war against us. He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent

states; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

## JOHN HANCOCK.

NEW HAMPSHIRE.	NEW JERSEY.	VIRGINIA.
Josiah Bartlett, William Whipple, Matthew Thornton.	Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.	George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee, Carter Braxton.
MASSACHUSETTS BAY.	PENNSYLVANIA.	NORTH CAROLINA
Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.	Robert Morris; Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.	William Hooper, Joseph Hewes, John Penn.
RHODE ISLAND, &c.	DELAWARE.	SOUTH CAROLINA.
Stephen Hopkins, William Ellery.	Cesar Rodney, George Read, Thomas M'Kean.	Edward Rutledge, Thomas Heyward, Jr., Thomas Lynch, Jr., Arthur Middleton.
CONNECTICUT.	MARYLAND.	GEORGIA.
Roger Sherman, Samuel Huntington, William Williams, + Oliver Wolcott.	Samuel Chase, William Paca, Thomas Stone, C. Carroll, of Carrollton.	Button Gwinnett, + Lyman Hall, George Walton.
NEW YORK.		
William Floyd, + Philip Livingston, Francis Lewis, + Lewis Morris.		

## POLITICAL RIGHTS AND SOVEREIGNTY.

Respecting the political rights and sovereignty of the several colonies, and of the union which was thus spontaneously formed by the people of the United Colonies, by the declaration of independence, Judge Story, in his Commentaries on the Constitution, remarks:—

In the first place, antecedent to the declaration of independence, none of the colonies were, or pretended to be, sovereign states, in the sense in which the term "sovereign" is sometimes applied to the states. The term "sovereign," or "sovereignty," is used in different senses, which often leads to a confusion of ideas, and sometimes to very mischievous and unfounded conclusions. By "sovereignty," in its largest sense, is meant supreme, absolute, uncontrollable power, the *jus summi imperii*, the absolute right to govern. A state or nation is a body politic, or society of men, united together for the purpose of promoting their mutual safety and advantage by their combined strength. By the very act of



civil and political association, each citizen subjects himself to the authority of the whole; and the authority of all over each member essentially belongs to the body politic. A state which possesses this absolute power, without any dependence upon any foreign power or state, is in the largest sense a sovereign state. And it is wholly immaterial what is the form of the government, or by whose hands this absolute authority is exercised. It may be exercised by the people at large, as in a pure democracy; or by a select few, as in an absolute aristocracy; or by a single person, as in an absolute monarchy. But "sovereignty" is often used, in a far more limited sense than that of which we have spoken, to designate such political powers as, in the actual organization of the particular state or nation, are to be exclusively exercised by certain public functionaries, without the control of any superior authority. It is in this sense that Blackstone employs it, when he says that it is of "the very essence of a law, that it is made by the supreme power. Sovereignty and legislature are, indeed, convertible terms; one cannot subsist without the other." Now, in every limited government, the power of legislation is, or at least may be, limited at the will of the nation; and therefore the legislature is not in an absolute sense sovereign. It is in the same sense that Blackstone says, "the law ascribes to the king of England the attribute of sovereignty or preëminence," because, in respect to the powers confided to him, he is dependent on no man, and accountable to no man, and subjected to no superior jurisdiction. Yet the king of England cannot make a law; and his acts, beyond the powers assigned to him by the constitution, are utterly void.

In like manner, the word "state" is used in various senses. In its most enlarged sense, it means the people composing a particular nation or community. In this sense, the "state" means the whole people, united into one body politic; and the state, and the people of the state, are equivalent expressions. Mr. Justice Wilson, in his Law Lectures, uses the word "state" in its broadest sense. "In free states," says he, "the people form an artificial person, or body politic, the highest and noblest that can be known. They form that moral person, which, in one of my former lectures, I described as a complete body of free, natural persons, united together for their common benefit; as having an understanding and a will; as deliberating, and resolving, and acting; as possessed of interests which it ought to manage; as enjoying rights which it ought to maintain; and as lying under obligations which it ought to perform. To this moral person we assign, by way of eminence, the dignified appellation of STATE." But there is a more limited sense, in which the word is often used, where it expresses merely the positive or actual organization of legislative, executive, or judicial powers. Thus the actual government of a state is frequently designated by the name of *the state*. We say, the state has power to do this or that; the state has passed a law, or prohibited an act; meaning no more than that the proper functionaries, organized for that purpose, have power to do the act, or have passed the law, or prohibited the particular action. The sovereignty of a nation or state, considered with reference to its association, as a body politic, may be absolute and uncontrollable in all respects, except the limitations which it chooses to impose upon itself. But the sovereignty of the government, organized within the state, may be of a very limited nature. It may extend to a few, or to many objects. It may be unlimited, as to some; it may be restrained, as to others. To the extent of the power given, the government may be sover-

eign, and its acts may be deemed the sovereign acts of the state. Nay, the state, by which we mean the people composing the state, may divide its sovereign powers among various functionaries, and each, in the limited sense, would be sovereign in respect to the powers confided to each, and dependent in all other cases. Strictly speaking, in our republican forms of government, the absolute sovereignty of the nation is in the people of the nation; and the residuary sovereignty of each state, not granted to any of its public functionaries, is in the people of the state.\*

There is another mode in which we speak of a state as sovereign, and that is in reference to foreign states. Whatever may be the internal organization of the government of any state, if it has the sole power of governing itself, and is not dependent upon any foreign state, it is called a *sovereign state*; that is, it is a state having the same rights, privileges, and powers, as other independent states. It is in this sense that the term is generally used in treatises and discussions on the law of nations.

Now, it is apparent that none of the colonies, before the revolution, were, in the most large and general sense, independent or sovereign communities. They were all originally settled under, and subjected to, the British crown. Their powers and authorities were derived from, and limited by, their respective charters. All, or nearly all, of these charters controlled their legislation by prohibiting them from making laws repugnant, or contrary, to those of England. The crown, in many of them, possessed a negative upon their legislation, as well as the exclusive appointment of their superior officers, and a right of revision, by way of appeal, of the judgments of their courts. In their most solemn declarations of rights, they admitted themselves bound, as British subjects, to allegiance to the British crown; and, as such, they claimed to be entitled to all the rights, liberties, and immunities, of free-born British subjects. They denied all power of taxation, except by their own colonial legislatures; but at the same time they admitted themselves bound by acts of the British Parliament for the regulation of external commerce, so as to secure the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members. So far as respects foreign states, the colonies were not, in the sense of the law of nations, sovereign states, but mere dependencies of Great Britain. They could make no treaty, declare no war, send no ambassadors, regulate no intercourse or commerce, nor, in any other shape, act as sovereigns; in the negotiations usual between independent states. In respect to each other, they stood in the common relation of British subjects; the legislation of neither could be controlled by any other; but there was a common subjection to the British crown. If in any sense they might claim the attributes of sovereignty, it was only in that subordinate sense to which we have alluded, as exercising within a limited extent certain usual powers of sovereignty. They did not even affect to claim a local allegiance.

In the next place, the colonies did not severally act for themselves, and proclaim their own independence. It is true that some of the states had

\* Mr. Madison, in his elaborate report in the Virginia legislature, in January, 1800, adverts to the different senses in which the word "state" is used. He says, "It is indeed true that the term 'states' is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus it sometimes means the separate sections of territory occupied by the political societies within each; sometimes the particular *governments* established by those societies; sometimes those societies, as organized into those particular governments: and lastly, it means the *people* composing those political societies, in their highest sovereign capacity."

previously formed incipient governments for themselves; but it was done in compliance with the recommendations of Congress. Virginia, on the 29th of June, 1776, by a convention of delegates, declared "the government of this country, as formerly exercised under the crown of Great Britain, totally dissolved," and proceeded to form a new constitution of government. New Hampshire also formed a government, in December, 1775, which was manifestly intended to be temporary, "during (as they said) the unhappy and unnatural contest with Great Britain." New Jersey, too, established a frame of government, on the 2d of July, 1776; but it was expressly declared that it should be void upon a reconciliation with Great Britain. And South Carolina, in March, 1776, adopted a constitution of government; but this was, in like manner, "established until an accommodation between Great Britain and America could be obtained." But the declaration of the independence of all the colonies was the united act of all. It was "a declaration by the representatives of the United States of America in Congress assembled;" "by the delegates appointed by the good people of the colonies," as in a prior declaration of rights they were called. It was not an act done by the state governments then organized; nor by persons chosen by them. It was emphatically the act of the whole *people* of the United Colonies, by the instrumentality of their representatives, chosen for that among other purposes. It was an act not competent to the state governments, or any of them, as organized under their charters, to adopt. Those charters neither contemplated the case, nor provided for it. It was an act of original, inherent sovereignty by the people themselves, resulting from their right to change the form of government, and to institute a new government, whenever necessary for their safety and happiness. So the Declaration of Independence treats it. No state had presumed of itself to form a new government, or to provide for the exigencies of the times, without consulting Congress on the subject; and when they acted, it was in pursuance of the recommendation of Congress. It was, therefore, the achievement of the whole for the benefit of the whole. The people of the United Colonies made the United Colonies free and independent states, and absolved them from allegiance to the British crown. The Declaration of Independence has accordingly always been treated as an act of paramount and sovereign authority, complete and perfect *per se*, and *ipso facto* working an entire dissolution of all political connection with, and allegiance to, Great Britain; and this, not merely as a practical fact, but in a legal and constitutional view of the matter by courts of justice.

In the debates in the South Carolina legislature, in January, 1788, respecting the propriety of calling a convention of the people to ratify or reject the Constitution, a distinguished statesman used the following language: "This admirable manifesto (i. e. the Declaration of Independence) sufficiently refutes the doctrine of the individual sovereignty and independence of the several states. In that Declaration the several states are not even enumerated; but after reciting, in nervous language, and with convincing arguments, our right to independence, and the tyranny which compelled us to assert it, the Declaration is made in the following words: 'We, therefore, the representatives of the United States, &c., do, in the name, &c., of the good people of these colonies, solemnly publish, &c., that these United Colonies are, and of right ought to be, free and independent states.' The separate independence and individual sovereignty of the several states were never thought of by the enlightened band of



patriots who framed this Declaration. The several states are not even mentioned by name in any part, as if it was intended to impress the maxim on America, that our freedom and independence arose from our union, and that without it we could never be free or independent. Let us then consider all attempts to weaken this union, by maintaining that each state is separately and individually independent, as a species of political heresy, which can never benefit us, but may bring on us the most serious distresses."

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## OCURRENCES INCIDENT TO ACT OF CONFEDERATION

DURING the time that the Declaration of Independence was under consideration, Congress took the necessary measures for the formation of a constitutional plan of union. On the 11th of June, 1776, it was resolved, that a committee should be appointed to prepare and digest the form of a confederation to be entered into between the colonies; and on the day following, after it had been determined that the committee should consist of a member from each colony, the following persons were appointed to perform that duty, to wit: Mr. Bartlett, Mr. S. Adams, Mr. Hopkins, Mr. Sherman, Mr. R. R. Livingston, Mr. Dickinson, Mr. M'Kean, Mr. Stone, Mr. Nelson, Mr. Hewes, Mr. E. Rutledge, and Mr. Gwinnett. Upon the report of this committee, the subject was from time to time debated, until the 15th of November, 1777, when a copy of the Confederation being made out, and sundry amendments made in the diction, without altering the sense, the same was finally agreed to. Congress, at the same time, directed that the Articles should be proposed to the legislatures of all the United States, to be considered; and, if approved of by them, they were advised to authorize their delegates to ratify the same in the Congress of the United States; which being done, the same should become conclusive. Three hundred copies of the Articles of Confederation were ordered to be printed for the use of Congress; and on the 17th of November, the form of a circular letter, to accompany them, was brought in by a committee appointed to prepare it, and, being agreed to, thirteen copies of it were ordered to be made out, to be signed by the president, and forwarded to the several states, with copies of the Confederation. On the 29th of November ensuing, a committee of three was appointed, to procure a translation of the Articles to be made into the French language, and to report an address to the inhabitants of Canada, &c.

On the 26th of June, 1778, the form of a ratification of the Articles of Confederation was adopted; and it was ordered that the whole should be engrossed on parchment, with a view that the same should be signed by the delegates, in virtue of the powers furnished by the several states. On the 20th of June, 1778, Congress resolved, that the delegates of the states, beginning with New Hampshire, should be called upon for the report of their constituents upon the Confederation, and the powers committed to them, and that no amendments should be proposed but such as came from a state. Upon subsequent examination, it appeared that New Hampshire, New York, Virginia, and North Carolina, accepted the Articles as they stood, with a proviso, on the part of New York, that the same should not



be binding on the state until all the other states in the Union should ratify the same. Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Maryland, and South Carolina, proposed alterations, additions, or amendments, which, upon their being considered by the Congress, were all rejected. The delegate from Georgia, when called on, stated, that he had not received any instructions from his constituents respecting the Articles of Confederation; but that, his state having shown so much readiness to ratify them, even in an imperfect form, and it being so much for their interest that the Confederation should be ratified, he had no doubt of their agreeing to the Articles as they stood. Delaware and North Carolina having no delegates present in Congress, no report was received from them; but North Carolina had signified her unanimous accession, by a letter from Governor Caswell, of the 26th of April, 1778. On the 9th of July of that year, the ratification of the Articles of Confederation, having been engrossed on a roll of parchment, was examined, the blanks filled up, and it was signed, on the part and in behalf of their respective states, by the delegates of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, Pennsylvania, Virginia, and South Carolina, agreeably to the powers vested in them. The delegates of the states of New Jersey, Delaware, and Maryland, informed Congress that they had not yet received powers to ratify and sign. North Carolina and Georgia were not at that time represented in Congress. A committee was appointed to prepare a circular letter to such states as had not authorized their delegates to ratify the Confederation, which was brought in and adopted, as follows:—

SIR: Congress, intent upon the present and future security of these United States, has never ceased to consider a confederacy as the great principle of union, which can alone establish the liberty of America, and exclude forever the hopes of its enemies. Influenced by considerations so powerful, and duly weighing the difficulties which oppose the expectation of any plan being formed that can exactly meet the wishes and obtain the approbation of so many states, differing essentially in various points, Congress have, after mature deliberation, agreed to adopt, without amendments, the Confederation transmitted to the several states for their approbation. The states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, Pennsylvania, Virginia, North Carolina, and South Carolina, have ratified the same, and it remains only for your state, with those of ——, to conclude the glorious compact, which, by uniting the wealth, strength, and councils of the whole, may bid defiance to external violence and internal dissensions, whilst it secures the public credit both at home and abroad. Congress is willing to hope that the patriotism and good sense of your state will be influenced by motives so important; and they request, sir, that you will be pleased to lay this letter before the legislature of ——, in order that, if they judge it proper, their delegates may be instructed to ratify the Confederation with all convenient despatch; trusting to future deliberations to make such alterations and amendments as experience may show to be expedient and just.

I have the honor to be, &c.

On the 21st of July, 1778, the delegates of North Carolina, being then empowered, signed the ratification; those of Georgia, being also authorized, signed it on the 24th of the same month. The delegates of New Jersey, in virtue of full powers, affixed their signatures on the 26th of November following. On the 5th of May, 1779, Mr. Dickinson and Mr. Vandyke signed the Articles of Confederation in behalf of the state of Delaware, Mr. M'Kean having previously signed them in February, at which time he produced a power to that effect. Maryland did not ratify until the year 1781. She had instructed her delegates, on the 15th of December, 1778, not to agree to the Confederation, until matters respecting the western lands should be settled on principles of equity and sound

policy; but, on the 30th of January, 1781, finding that the enemies of the country took advantage of the circumstance to disseminate opinions of an ultimate dissolution of the Union, the legislature of the state passed an act to empower their delegates to subscribe and ratify the Articles, which was accordingly done by Mr. Hanson and Mr. Carroll, on the 1st of March of that year, which completed the ratifications of the act; and Congress assembled on the 2d of March under the new powers.

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## OFFICIAL LETTER ACCOMPANYING ACT OF CONFEDERATION.

IN CONGRESS, YORKTOWN, *November 17, 1777.*

CONGRESS having agreed upon a plan of confederacy for securing the freedom, sovereignty, and independence of the United States, authentic copies are now transmitted for the consideration of the respective legislatures.

This business, equally intricate and important, has, in its progress, been attended with uncommon embarrassment and delay, which the most anxious solicitude and persevering diligence could not prevent. To form a permanent union, accommodated to the opinion and wishes of the delegates of so many states, differing in habits, produce, commerce, and internal police, was found to be a work which nothing but time and reflection, conspiring with a disposition to conciliate, could mature and accomplish.

Hardly is it to be expected that any plan, in the variety of provisions essential to our union, should exactly correspond with the maxims and political views of every particular state. Let it be remarked, that, after the most careful inquiry, and the fullest information, this is proposed as the best which could be adapted to the circumstances of all, and as that alone which affords any tolerable prospect of general ratification.

Permit us, then, earnestly to recommend these Articles to the immediate and dispassionate attention of the legislatures of the respective states. Let them be candidly reviewed under a sense of the difficulty of combining in one general system the various sentiments and interests of a continent divided into so many sovereign and independent communities; under a conviction of the absolute necessity of uniting all our councils, and all our strength, to maintain and defend our common liberties; let them be examined with a liberality becoming brethren and fellow-citizens surrounded by the same imminent dangers, contending for the same illustrious prize, and deeply interested in being forever bound and connected together by ties the most intimate and indissoluble; and, finally, let them be adjusted with the temper and magnanimity of wise and patriotic legislators, who, while they are concerned for the prosperity of their own more immediate circle, are capable of rising superior to local attachments, when they may be incompatible with the safety, happiness, and glory, of the general confederacy.

We have reason to regret the time which has elapsed in preparing this plan for consideration: with additional solicitude we look forward to that which must be necessarily spent before it can be ratified. Every motive loudly calls upon us to hasten its conclusion.

More than any other consideration, it will confound our foreign enemies, defeat the flagitious practices of the disaffected, strengthen and confirm our friends, support our public credit, restore the value of our money, enable us to maintain our fleets and armies, and add weight and respect to our councils at home and to our treaties abroad.

In short, this salutary measure can no longer be deferred. It seems essential to our very existence as a free people; and, without it, we may soon be constrained to bid adieu to independence, to liberty, and safety — blessings which, from the justice of our cause, and the favor of our Almighty Creator, visibly manifested in our protection, we have reason to expect, if, in an humble dependence on his divine providence, we strenuously exert the means which are placed in our power.

To conclude: If the legislature of any state shall not be assembled, Congress recommend to the executive authority to convene it without delay; and to each respective legislature it is recommended to invest its delegates with competent powers, ultimately, in the name and behalf of the state, to subscribe Articles of Confederation and Perpetual Union of the United States, and to attend Congress for that purpose on or before the 10th day of March next.



#### JEFFERSON'S NOTES OF DEBATE ON CONFEDERATION

On *Friday, July 12*, the committee appointed to draw the Articles of Confederation reported them, and on the 22d the house resolved themselves into a committee to take them into consideration. On the 30th and 31st of that month, and 1st of the ensuing, those articles were debated which determined the proportion, or quota, of money which each state should furnish to the common treasury, and the manner of voting in Congress. The first of these articles was expressed, in the original draft, in these words: —

“Art. XI. All charges of war, and all other expenses that shall be incurred for the common defence, or general welfare, and allowed by the United States assembled, shall be defrayed out of a common treasury, which shall be supplied by the several colonies in proportion to the number of inhabitants of every age, sex, and quality, except Indians not paying taxes, in each colony, — a true account of which, distinguishing the white inhabitants, shall be triennially taken, and transmitted to the Assembly of the United States.”

Mr. CHASE moved that the quotas should be fixed, not by the number of inhabitants of every condition, but by that of the “white inhabitants.” He admitted that taxation should be always in proportion to property; that this was, in theory, the true rule; but that, from a variety of difficulties, it was a rule which could never be adopted in practice. The value of the property in every state could never be es

timated justly and equally. Some other measures for the wealth of the state must therefore be devised, some standard referred to, which would be more simple. He considered the number of inhabitants as a tolerably good criterion of property, and that this might always be obtained. He therefore thought it the best mode which we could adopt, with one exception only: he observed that negroes are property, and, as such, cannot be distinguished from the lands or personalities held in those states where there are few slaves; that the surplus of profit which a northern farmer is able to lay by, he invests in cattle, horses, &c., whereas a southern farmer lays out the same surplus in slaves. There is no more reason, therefore, for taxing the Southern States on the farmer's head, and on his slave's head, than the Northern ones on their farmers' heads and the heads of their cattle; that the method proposed would, therefore, tax the Southern States according to their numbers and their wealth conjunctly, while the Northern would be taxed on numbers only; that negroes, in fact, should not be considered as members of the state, more than cattle, and that they have no more interest in it.

Mr. JOHN ADAMS observed, that the numbers of people are taken, by this article, as an index of the wealth of the state, and not as subjects of taxation; that, as to this matter, it was of no consequence by what name you called your people, whether by that of *freemen* or of *slaves*; that, in some countries, the laboring poor are called *freemen*, in others they were called *slaves*; but that the difference as to the state was imaginary only. What matters it whether a landlord, employing ten laborers on his farm, give them annually as much money as will buy them the necessaries of life, or give them those necessaries at short hand? The ten laborers add as much wealth to the state, increase its exports as much, in the one case as the other. Certainly five hundred freemen produce no more profits, no greater surplus for the payment of taxes, than five hundred slaves. Therefore the state in which are the laborers called *freemen*, should be taxed no more than that in which are those called *slaves*. Suppose, by an extraordinary operation of nature or of law, one half the laborers of a state could, in the course of one night, be transformed into slaves; would the state be made the poorer, or the less able to pay taxes? That the condition of the laboring poor in most countries — that of



the fishermen, particularly, of the Northern States — is as abject as that of slaves. It is the number of laborers which produces the surplus for taxation ; and numbers, therefore, indiscriminately, are the fair index to wealth ; that it is the use of the word “ property ” here, and its application to some of the people of the state, which produce the fallacy. How does the southern farmer procure slaves ? Either by importation, or by purchase from his neighbor. If he imports a slave, he adds one to the number of laborers in his country, and, proportionably, to its profits, and ability to pay taxes. If he buys from his neighbor, it is only a transfer of a laborer from one farm to another, which does not change the annual produce of the state, and therefore should not change its tax ; that if a northern farmer works ten laborers on his farm, he can, it is true, invest the surplus of ten men’s labor in cattle ; but so may the southern farmer, working ten slaves ; that a state of one hundred thousand freemen can maintain no more cattle than one of one hundred thousand slaves. Therefore they have no more of that kind of property. That a slave may, indeed, from the custom of speech, be more properly called the wealth of his master, than the free laborer might be called the wealth of his employer ; but as to the state, both were equally its wealth, and should therefore equally add to the quota of its tax.

Mr. HARRISON proposed, as a compromise, that two slaves should be counted as one freeman. He affirmed that slaves did not do as much work as freemen, and doubted if two effected more than one ; that this was proved by the price of labor — the hire of a laborer in the southern colonies being from £8 to £12, while in the northern it was generally £24.

Mr. WILSON said that, if this amendment should take place, the southern colonies would have all the benefit of slaves, whilst the northern ones would bear the burden ; that slaves increase the profits of a state, which the Southern States mean to take to themselves ; that they also increase the burden of defence, which would of course fall so much the heavier on the Northern ; that slaves occupy the places of freemen, and eat their food. Dismiss your slaves, and freemen will take their places. It is our duty to lay every discouragement on the importation of slaves ; but this amendment would give the *jus trium liberorum* to him who

would import slaves; that other kinds of property were pretty equally distributed through all the colonies;— there were as many cattle, horses, and sheep, in the north as the south, and south as the north; but not so as to slaves;— that experience has shown that those colonies have been always able to pay most which have the most inhabitants, whether they be black or white; and the practice of the southern colonies has always been to make every farmer pay poll taxes upon all his laborers, whether they be black or white. He acknowledges, indeed, that freemen work the most; but they consume the most also. They do not produce a greater surplus for taxation. The slave is neither fed nor clothed so expensively as a freeman. Again, white women are exempted from labor generally, but negro women are not. In this, then, the Southern States have an advantage, as the article now stands. It has sometimes been said, that slavery is necessary, because the commodities they raise would be too dear for market if cultivated by freemen; but now it is said that the labor of the slave is the dearest.

Mr. PAYNE urged the original resolution of Congress, to proportion the quotas of the states to the number of souls.

Dr. WITHERSPOON was of opinion that the value of lands and houses was the best estimate of the wealth of a nation, and that it was practicable to obtain such a valuation. This is the true barometer of wealth. The one now proposed is imperfect in itself, and unequal between the states. It has been objected that negroes eat the food of freemen, and therefore should be taxed: horses also eat the food of freemen; therefore they also should be taxed. It has been said, too, that, in carrying slaves into the estimate of the taxes the state is to pay, we do no more than those states themselves do, who always take slaves into the estimate of the taxes the individual is to pay. But the cases are not parallel. In the southern colonies slaves pervade the whole colony; but they do not pervade the whole continent. That, as to the original resolution of Congress, to proportion the quotas according to the souls, it was temporary only, and related to the moneys heretofore emitted; whereas we are now entering into a new compact, and therefore stand on original ground.

*August 1.* — The question being put, the amendment proposed was rejected by the votes of New Hampshire, Massa-

chusetts, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania, against those of Delaware, Maryland, Virginia, North and South Carolina. Georgia was divided.

The other article was in these words: "Art. XVII. In determining questions, each colony shall have one vote."

*July 30, 31, August 1.*—Present forty-one members. Mr. CHASE observed, that this article was the most likely to divide us, of any one proposed in the draft then under consideration. That the larger colonies had threatened they would not confederate at all, if their weight in Congress should not be equal to the numbers of people they added to the confederacy; while the smaller ones declared against a union, if they did not retain an equal vote, for the protection of their rights. That it was of the utmost consequence to bring the parties together; as, should we sever from each other, either no foreign power will ally with us at all, or the different states will form different alliances, and thus increase the horrors of those scenes of civil war and bloodshed, which, in such a state of separation and independence, would render us a miserable people. That our importance, our interests, our peace, required that we should confederate, and that mutual sacrifices should be made to effect a compromise of this difficult question. He was of opinion the smaller colonies would lose their rights, if they were not in some instances allowed an equal vote; and, therefore, that a discrimination should take place among the questions which would come before Congress. That the smaller states should be secured in all questions concerning life or liberty, and the greater ones, in all respecting property. He therefore proposed that, in votes relating to money, the voice of each colony should be proportioned to the number of its inhabitants.

Dr. FRANKLIN thought, that the votes should be so proportioned in all cases. He took notice that the Delaware counties had bound up their delegates to disagree to this article. He thought it very extraordinary language to be held by any state, that they would not confederate with us, unless we would let them dispose of our money. Certainly, if we vote equally, we ought to pay equally; but the smaller states will hardly purchase the privilege at this price. That, had he lived in a state where the representation, originally equal, had become unequal by time and accident, he might have submitted rather than disturb government; but that we

should be very wrong to set out in this practice, when it is in our power to establish what is right. That, at the time of the union between England and Scotland, the latter had made the objection which the smaller states now do; but experience had proved that no unfairness had ever been shown them; that their advocates had prognosticated that it would again happen, as in times of old, that the whale would swallow Jonah; but he thought the prediction reversed in event, and that Jonah had swallowed the whale; for the Scotch had in fact got possession of the government, and gave laws to the English. He reprobated the original agreement of Congress to vote by colonies, and, therefore, was for their voting, in all cases, according to the number of taxables.

Dr. WITHERSPOON opposed every alteration of the article. All men admit that a confederacy is necessary. Should the idea get abroad that there is likely to be no union among us, it will damp the minds of the people, diminish the glory of our struggle, and lessen its importance; because it will open to our view future prospects of war and dissension among ourselves. If an equal vote be refused, the smaller states will become vassals to the larger; and all experience has shown that the vassals and subjects of free states are the most enslaved. He instanced the helots of Sparta and the provinces of Rome. He observed that foreign powers, discovering this blemish, would make it a handle for disengaging the smaller states from so unequal a confederacy. That the colonies should, in fact, be considered as individuals; and that, as such, in all disputes they should have an equal vote; that they are now collected as individuals making a bargain with each other, and, of course, had a right to vote as individuals. That in the East India Company they voted by persons, and not by their proportion of stock. That the Belgic confederacy voted by provinces. That in questions of war the smaller states were as much interested as the larger, and therefore should vote equally; and, indeed, that the larger states were more likely to bring war on the confederacy, in proportion as their frontier was more extensive. He admitted that equality of representation was an excellent principle, but then it must be of things which are coördinate; that is, of things similar, and of the same nature; that nothing relating to individuals could ever come before Con-



gress; nothing but what would respect colonies. He distinguished between an incorporating and a federal union. The union of England was an incorporating one; yet Scotland had suffered by that union; for that its inhabitants were drawn from it by the hopes of places and employments; nor was it an instance of equality of representation; because, while Scotland was allowed nearly a thirteenth of representation, they were to pay only one fortieth of the land tax. He expressed his hopes that, in the present enlightened state of men's minds, we might expect a lasting confederacy, if it was founded on fair principles.

JOHN ADAMS advocated the voting in proportion to numbers. He said, that we stand here as the representatives of the people; that in some states the people are many, in others they are few; that therefore their vote here should be proportioned to the numbers from whom it comes. Reason, justice, and equity, never had weight enough, on the face of the earth, to govern the councils of men. It is interest alone which does it, and it is interest alone which can be trusted; that therefore the interests within doors should be the mathematical representatives of the interests without doors; that the individuality of the colonies is a mere sound. Does the individuality of a colony increase its wealth or numbers? If it does, pay equally. If it does not add weight in the scale of the confederacy, it cannot add to their rights, nor weigh in argument. A has £50, B £500, C £1000, in partnership. Is it just they should equally dispose of the moneys of the partnership? It has been said we are independent individuals, making a bargain together. The question is not what we are now, but what we ought to be when our bargain shall be made. The confederacy is to make us one individual only; it is to form us, like separate parcels of metal, into one common mass. We shall no longer retain our separate individuality, but become a single individual, as to all questions submitted to the confederacy. Therefore all those reasons which prove the justice and expediency of equal representation in other assemblies hold good here. It has been objected that a proportional vote will endanger the smaller states. We answer, that an equal vote will endanger the larger. Virginia, Pennsylvania, and Massachusetts, are the three greater colonies. Consider their distance, their difference

of produce, of interests, and of manners, and it is apparent they can never have an interest or inclination to combine for the oppression of the smaller; that the smaller will naturally divide on all questions with the larger. Rhode Island, from its relation, similarity, and intercourse, will generally pursue the same objects with Massachusetts; Jersey, Delaware, and Maryland, with Pennsylvania.

Dr. RUSH took notice, that the decay of the liberties of the Dutch republic proceeded from three causes — 1. the perfect unanimity requisite on all occasions; 2. their obligation to consult their constituents; 3. their voting by provinces. This last destroyed the equality of representation; and the liberties of Great Britain, also, are sinking from the same defect. That a part of our rights is deposited, in the hands of our legislatures. There, it was admitted, there should be an equality of representation. Another part of our rights is deposited in the hands of Congress. Why is it not equally necessary there should be an equal representation there? Were it possible to collect the whole body of the people together, they would determine the questions submitted to them by their majority. Why should not the same majority decide, when voting here by their representatives? The larger colonies are so providentially divided in situation, as to render every fear of their combining visionary. Their interests are different, and their circumstances dissimilar. It is more probable they will become rivals, and leave it in the power of the smaller states to give preponderance to any scale they please. The voting by the number of free inhabitants will have one excellent effect — that of inducing the colonies to discourage slavery and to encourage the increase of their free inhabitants.

Mr. HOPKINS observed, there were four larger, four smaller, and four middle-sized colonies. That the four largest would contain more than half the inhabitants of the confederating states, and therefore would govern the others as they should please. That history affords no instance of such a thing as equal representation. The Germanic body votes by states; the Helvetic body does the same; and so does the Belgic confederacy. That too little is known of the ancient confederations to say what was their practice.

Mr. WILSON thought that taxation should be in proportion to wealth, but that representation should accord with

the number of freemen. That government is a collection or result of the wills of all; that if any government could speak the will of all, it would be perfect; and that, so far as it departs from this, it becomes imperfect. It has been said that Congress is a representation of states, not of individuals. I say, that the objects of its care are all the individuals of the states. It is strange that annexing the name of "state" to ten thousand men, should give them an equal right with forty thousand. This must be the effect of magic, not of reason. As to those matters which are referred to Congress, we are not so many states; we are one large state. We lay aside our individuality whenever we come here. The Germanic body is a burlesque on government, and their practice on any point is a sufficient authority and proof that it is wrong. The greatest imperfection in the constitution of the Belgic confederacy is their voting by provinces. The interest of the whole is constantly sacrificed to that of the small states. The history of the war in the reign of Queen Anne sufficiently proves this. It is asked, Shall nine colonies put it into the power of four to govern them as they please? I invert the question, and ask, Shall two millions of people put it into the power of one million to govern them as they please? It is pretended, too, that the smaller colonies will be in danger from the greater. Speak in honest language, and say, the minority will be in danger from the majority. And is there an assembly on earth where this danger may not be equally pretended? The truth is, that our proceedings will then be consentaneous with the interests of the majority, and so they ought to be. The probability is much greater that the larger states will disagree than that they will combine. I defy the wit of man to invent a possible case, or to suggest any one thing on earth, which shall be for the interests of Virginia, Pennsylvania and Massachusetts, and which will not also be for the interests of the other states.

These articles, reported July 12, '76, were debated from day to day, and time to time, for two years; were ratified July 9, '78, by ten states; by New Jersey, on the 26th of November of the same year; and by Delaware, on the 23d of February following. Maryland, alone, held off two years more, acceding to them March 1, '81, and thus closing the obligation.

## ARTICLES OF CONFEDERATION

TO ALL TO WHOM THESE PRESENTS SHALL COME,

*We, the undersigned, Delegates of the States affixed to our names, send greeting :*

WHEREAS the delegates of the United States of America, in Congress assembled, did, on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the Independence of America, agree to certain Articles of Confederation and Perpetual Union, between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz. : —

*Articles of Confederation and Perpetual Union, betwecn the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.*

ARTICLE 1. The style of this confederacy shall be, “The United States of America.”

ART. 2. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. 3. The said states hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare ; binding themselves to assist each other against all force offered to, or attacks made upon, them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ART. 4. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this Union, the free inhabitants of each of these states — paupers, vagabonds, and fugitives from justice, excepted — shall be entitled to all privileges and immunities of free citizens in the several states ; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof, respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state from any other state, of which the owner is an inhabitant ; provided also, that no imposition, duty, or restriction, shall be laid by any state on the property of the United States, or either of them.

If any person, guilty of, or charged with, treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up, and removed to the state having jurisdiction of his offence.



Full faith and credit shall be given, in each of these states, to the records, acts, and judicial proceedings, of the courts and magistrates of every other state.

ART. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state, to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No state shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. 6. No state, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into, by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessel of war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary, by the United States in Congress assembled, for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide, and have constantly ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by

enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be infested by pirates; in which case, vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

ART. 7. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each state, respectively, by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

ART. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land, within each state, granted to or surveyed for any person, as such land, and the buildings and improvements thereon, shall be estimated, according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in Congress assembled.

ART. 9. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article — of sending and receiving ambassadors — entering into treaties and alliances; provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever — of establishing rules for deciding, in all cases, what captures, on land or water, shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated — of granting letters of marque and reprisal in times of peace — appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of capture; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise, between two or more states, concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent, of any state in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other state in controversy, and a day assigned

for the appearance of the parties, by their lawful agents, — who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each state, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall, in like manner, be final and decisive, — the judgment or sentence, and other proceedings, being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, “*well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward.*” provided, also, that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more states, whose jurisdiction, as they may respect such lands, and the states which passed such grants, are adjusted, the said grants, or either of them, being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating post-offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated "a committee of the states," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction — to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years — to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses — to borrow money or emit bills on the credit of the United States, transmitting, every half year, to the respective states, an account of the sums of money so borrowed or emitted — to build and equip a navy — to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisitions shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped, in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war; nor grant letters of marque and reprisal in time of peace; nor enter into any treaties or alliances; nor coin money; nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them; nor emit bills; nor borrow money on the credit of the United States; nor appropriate money; nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised; nor appoint a commander-in-chief of the army or navy, — unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof, relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate: and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the



said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ART. 10. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the Articles of Confederation, the voice of nine states in the Congress of the United States assembled is requisite.

ART. 11. Canada, acceding to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this union; but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

ART. 12. All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of Congress, before the assembling of the United States in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith, are hereby solemnly pledged.

ART. 13. Every state shall abide by the determination of the United States in Congress assembled, on all questions which, by this Confederation, are submitted to them. And the articles of this Confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration, at any time hereafter, be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislature of every state.

#### RATIFICATION.

And whereas it has pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of and to authorize us to ratify the said Articles of Confederation and Perpetual Union: *Know ye*, That we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and Perpetual Union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions which, by the said Confederation, are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent; and that the union shall be perpetual.

In witness whereof, we have hereunto set our hands, in Congress. Done at Philadelphia, in the state of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the Independence of America.

*On the part and behalf of the state of New Hampshire.*

Josiah Bartlett,

John Wentworth, Jun., Aug. 8, 1778

*On the part and behalf of the state of Massachusetts Bay.*

John Hancock,  
Samuel Adams,  
Elbridge Gerry,

Francis Dana,  
James Lovell,  
Samuel Holten.

*On the part and behalf of the state of Rhode Island and Providence Plantations*

William Ellery,  
Henry Marchant,

John Collins.

*On the part and behalf of the state of Connecticut.*

Roger Sherinan,  
Samuel Huntington,  
Oliver Wolcott,

Titus Hosmer,  
Andrew Adams.

*On the part and behalf of the state of New York.*

Jas. Duane,  
Fra. Lewis,

Wm. Duer,  
Gouv. Morris.

*On the part and behalf of the state of New Jersey.*

Jno. Witherspoon,

Nath. Scudder, Nov. 26, 1778.

*On the part and behalf of the state of Pennsylvania.*

Robert Morris,  
Daniel Roberdeau,  
Jona. Bayard Smith,

William Clingan,  
Joseph Reed, 22d July, 1778.

*On the part and behalf of the state of Delaware.*

Thos. M'Kean, Feb. 13, '79,  
John Dickinson, May 5, '79,

Nicholas Van Dyke.

*On the part and behalf of the state of Maryland.*

John Hanson, March 1, '81,

Daniel Carroll, do.

*On the part and behalf of the state of Virginia.*

Richard Henry Lee,  
John Banister,  
Thomas Adams,

Jno. Harvie,  
Francis Lightfoot Lee.

*On the part and behalf of the state of North Carolina.*

John Penn, July 21, '78,  
Jno. Williams,

Corns. Harnett.

*On the part and behalf of the state of South Carolina.*

Henry Laurens,  
William Henry Drayton,  
Jno. Mathews,

Richard Hutson,  
Thos. Heyward, Jun.

*On the part and behalf of the state of Georgia.*

Jno. Walton, July 24, '78,  
Edw'd Telfair,

Edw'd Langworthy.

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## ABSTRACT OF PROCEEDINGS IN CONGRESS

### ON CERTAIN PROPOSED ALTERATIONS, AMENDMENTS, OR ADDITIONS, PROPOSED BY CERTAIN STATES TO THE ARTICLES OF CONFEDERATION.

MONDAY, June 22, 1778. — That the objections from the state of MARYLAND to the Confederation be immediately taken up and considered by Congress, that the delegates from Maryland may transmit to that state with all possible despatch, the determination of Congress on those objections.

Question put — resolved in the affirmative.

A motion was then made in behalf of Maryland.

In article 4, strike out the word "paupers;" and after the words "or either of them," insert "that one state shall not be burdened with the

maintenance of the poor who may remove into it from any of the others in the Union.”

Question put — passed in the negative, one state only answering *Ay*.

Another amendment was moved in behalf of Maryland.

Article 8, after the words “granted to or surveyed for,” insert, “or which shall hereafter be granted to or surveyed for any person.”

Question put — passed in the negative; 4 ayes, 8 noes.

A third amendment was moved in behalf of Maryland.

Article 9, after the words “shall be deprived of territory for the benefit of the United States,” insert, “the United States in Congress assembled shall have the power to appoint commissioners, who shall be fully authorized and empowered to ascertain and restrict the boundaries of such of the confederated states which claim to extend to the River Mississippi or South Sea:” after debate,

*Resolved*, That the consideration thereof be postponed till to-morrow.

TUESDAY, June 23, 1778. — Congress proceeded to consider the amendment of the Articles of Confederation moved in behalf of Maryland, —

And it passed in the negative.

The delegates of MASSACHUSETTS BAY, being called on, read sundry objections, transmitted to them by their constituents, to the Articles of Confederation, and thereupon moved, in behalf of their state, —

1st. That the 8th article be reconsidered, so far as relates to the criterion fixed on for settling the proportion of taxes to be paid by each state; that an amendment may be made, so that the rule of apportionment may be varied, from time to time, by Congress, until experience shall have shown what rule of apportionment will be most equal, and, consequently, most just.

Question put — passed in the negative; 2 ayes, 8 noes.

2d. That the 5th section of the 9th article be reconsidered, so far as relates to the rule of apportioning the number of forces to be raised by each state on the requisition of Congress.

Question put — passed in the negative; 3 ayes, 7 noes.

3d. That the 6th section of the 9th article be reconsidered, so far as it makes the assent of nine states necessary to exercise the powers with which Congress are thereby invested.

Question put — passed in the negative.

The delegates from RHODE ISLAND, being called on, produced instructions from their constituents, and thereupon moved the following amendments: —

1st. In the 5th article, after the word “two,” insert “members, unless by sickness, death, or any other unavoidable accident, but one of the members of a state can attend Congress in which case such state may be represented in Congress by one member for the space of ——— months.”

Question put — passed in the negative; 1 ay, 9 noes.

2d. In the 8th article, after the word “appoint,” add “such estimate to be taken and made once in every five years.”

Question put — passed in the negative; 4 ayes, 6 noes.

3d. In the 9th article, at the end of the 2d paragraph, after the words “for the benefit of the United States,” add “provided, nevertheless, that all lands within these states, the property of which, before the present war, was vested in the crown of Great Britain, or out of which revenues from quitrents arise, payable to the said crown, shall be deemed, taken, and considered, as the property of these United States, and be disposed of and

appropriated by Congress for the benefit of the whole confederacy—, reserving, however, to the states, within whose limits such crown lands may be, the entire and complete jurisdiction thereof.”

Question put — passed in the negative; 1 ay, 9 noes.

The delegates from CONNECTICUT, being called on, produced instructions, and thereupon moved the following amendments: —

1st. In the 8th article, after the words “in proportion to,” strike out what follows, to the end of the sentence, and in lieu thereof insert “the number of inhabitants in each state.”

Question put — passed in the negative; 3 ayes, 9 noes.

2d. In the 9th article, at the end of the 5th paragraph, add the words following: “provided, that no land army shall be kept up by the United States in time of peace; nor any officers or pensioners kept in pay by them, who are not in actual service, except such as are or may be rendered unable to support themselves, by wounds received in battle, in the service of the said states, agreeably to the provisions already made by a resolution of Congress.”

Question put — passed in the negative; 1 ay, 11 noes.

THURSDAY, *June 25, 1778.* — Congress took into consideration the representation from NEW JERSEY, on the Articles of Confederation, which was read as follows: —

*“To the United States in Congress assembled, the representation of the Legislative Councils and General Assembly of the state of New Jersey sheweth, —*

“That the Articles of Confederation and Perpetual Union, between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, proposed by the honorable Congress of the said states, severally, for their consideration, have been by us fully and attentively considered, on which we beg leave to remark as follows: —

“1st. In the 5th article, where, among other things, the qualifications of the delegates from the several states are described, there is no mention of any oath, test, or declaration, to be taken or made by them previous to their admission to seats in Congress. It is indeed to be presumed, the respective states will be careful that the delegates they send to assist in managing the general interests of the Union take the oaths to the government from which they derive their authority; but as the United States, collectively considered, have interests as well as each particular state, we are of opinion that some test or obligation, binding upon each delegate, while he continues in the trust, to consult and pursue the former as well as the latter, and particularly to assent to no vote or proceeding which may violate the general confederation, is necessary. The laws and usages of all civilized nations evince the propriety of an oath on such occasions, and the more solemn and important the deposit, the more strong and explicit ought the obligation to be.

“2d. By the 6th and 9th articles, the regulation of trade seems to be committed to the several states within their separate jurisdiction, in such a degree as may involve many difficulties and embarrassments and be attended with injustice to some states in the Union. We are of opinion that the sole and exclusive power of regulating the trade of the United



States with foreign nations ought to be clearly vested in the Congress, and that the revenue arising from all duties and customs imposed thereon ought to be appropriated to the building, equipping, and manning a navy, for the protection of the trade and defence of the coasts, and to such other public and general purposes as to the Congress shall seem proper, and for the common benefit of the states. This principle appears to us to be just; and it may be added, that a great security will, by this means, be derived to the Union, from the establishment of a common and mutual interest.

“3d. It is wisely provided, in the 6th article, that no body of forces shall be kept up by any state in time of peace, except such number only as, in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such states. We think it ought also to be provided, and clearly expressed, that no body of troops be kept up by the United States in time of peace, except such number only as shall be allowed by the assent of nine states. A standing army, a military establishment, and every appendage thereof, in time of peace, is totally abhorrent from the ideas and principles of this state. In the memorable act of Congress, declaring the United Colonies free and independent states, it is emphatically mentioned, as one of the causes of separation from Great Britain, that the sovereign thereof had kept up among us, in time of peace, standing armies, without the consent of the legislatures. It is to be wished the liberties and happiness of the people may, by the Confederation, be carefully and explicitly guarded in this respect.

“4th. On the 8th article we observe, that, as frequent settlements of the quotas for supplies and aids, to be furnished by the several states, in support of the general treasury, will be requisite, so they ought to be secured. It cannot be thought improper or unnecessary to have them struck once at least in every five years, and oftener if circumstances will allow. The quantity or value of real property in some states may increase much more rapidly than in others, and therefore the quota which is at one time just will, at another, be disproportionate.

“5th. The boundaries and limits of each state ought to be fully and finally fixed and made known. This, we apprehend, would be attended with very salutary effects, by preventing jealousies as well as controversies, and promoting harmony and confidence among the states. If the circumstances of the times would not admit of this previous to the proposal of the Confederation to the several states, the establishment of the principles upon which, and the rule and mode by which, the determination might be conducted, at a time more convenient and favorable for despatching the same, at an early period, (not exceeding five years from the final ratification of the Confederation,) would be satisfactory.

“6th. The 9th article provides that no state shall be deprived of territory for the benefit of the United States. Whether we are to understand that by *territory* is intended any land, the property of which was heretofore vested in the crown of Great Britain, or that no mention of such land is made in the Confederation, we are constrained to observe, that the present war, as we always apprehended, was undertaken for the general defence and interest of the confederating colonies, now the United States. It was ever the confident expectation of this state, that the benefits derived from a successful contest were to be general and proportionate; and that the property of the common enemy, falling in consequence of a prosperous issue of the war, would belong to the United States, and be appro-

priated to their use. We are therefore greatly disappointed in finding no provision made in the Confederation for empowering the Congress to dispose of such property, but especially the vacant and im patented lands commonly called the *crown lands*, for defraying the expenses of the war, and for such other public and general purposes. The jurisdiction ought, in every instance, to belong to the respective states within the charter or determined limits of which such lauds may be seated; but reason and justice must decide, that the property which existed in the crown of Great Britain previous to the present revolution ought now to belong to the Congress, in trust for the use and benefit of the United States. They have fought and bled for it, in proportion to their respective abilities, and therefore the reward ought not to be predilectionally distributed. Shall such states as are shut out by situation from availing themselves of the least advantage from this quarter, be left to sink under an enormous debt, whilst others are enabled, in a short period, to replace all their expenditures from the hard earnings of the whole confederacy?

“7th. The 9th article also provides that the requisition for the land forces, to be furnished by the several states, shall be proportioned to the number of *white* inhabitants in each. In the act of independence we find the following declaration: ‘We hold these truths to be self-evident — that all men are created equal; that they are endued by their Creator with certain unalienable rights, among which are life, liberty, and the pursuit of happiness.’ Of this doctrine it is not a very remote consequence, that all the inhabitants of every society, be the color of their complexion what it may, are bound to promote the interest thereof, according to their respective abilities. They ought, therefore, to be brought into the account, on this occasion. But admitting necessity or expediency to justify the refusal of liberty, in certain circumstances, to persons of a particular color, we think it unequal to reckon upon such in this case. Should it be improper, for special local reasons, to admit them in arms for the defence of the nation, yet we conceive the proportion of forces to be embodied ought to be fixed according to the whole number of inhabitants in the state, from whatever class they may be raised. If the whole number of inhabitants in a state, whose inhabitants are all whites, both those who are called into the field and those who remain to till the ground and labor in mechanical arts and otherwise, are reckoned in the estimate for striking the proportion of forces to be furnished by that state, ought even a part of the latter description to be left out in another? As it is of indispensable necessity, in every war, that a part of the inhabitants be employed for the uses of husbandry and otherwise at home, while others are called into the field, there must be the same propriety that owners of a different color, who are employed for this purpose in one state, while *whites* are employed for the same purpose in another, be reckoned in the account of the inhabitants in the present instance.

“8th. In order that the quota of troops to be furnished in each state, on occasion of a war, may be equitably ascertained, we are of opinion that the inhabitants of the several states ought to be numbered as frequently as the nature of the case will admit, and once, at least, every five years. The disproportioned increase in the population of different states may render such provision absolutely necessary.

“9th. It is provided, in the 9th article, that the assent of nine states out of the thirteen, shall be necessary to determine in sundry cases of the highest concern. If this proportion be proper and just, it ought to be

kept up, should the states increase in number, and a declaration thereof be made, for the satisfaction of the Union.

“That we think it our indispensable duty to solicit the attention of Congress to these considerations and remarks, and to request that the purport and meaning of them be adopted as part of the general confederation; by which means we apprehend the mutual interests of all the states will be better secured and promoted, and that the legislature of this state will then be justified in ratifying the same.”

Whereupon it was moved that the several articles in the Confederation, referred to in the foregoing representation, be so far reconsidered as to admit the purport and meaning of the additions, alterations, and amendments, proposed in the said representation.

Question put — passed in the negative; 3 ayes, 6 noes, 1 divided.

The delegates of PENNSYLVANIA, being called on, moved the following amendments, in behalf of their state: —

1st. In the 1st paragraph of the 5th article, *delete* the words “for the remainder of the year.”

Question put — passed in the negative; 2 ayes, 8 noes, 1 divided.

2d. That such part of the 9th article as respects the post-office be altered or amended, so as that Congress be obliged to lay the accounts annually before the legislatures of the several states.

Question put — passed in the negative; 2 ayes, 9 noes.

3d. In the 5th paragraph of the 9th article, expunge the word “white.”

Question put — passed in the negative; 3 ayes, 7 noes, 1 divided.

4th. In the last section of the 9th article, after the word “delegates,” add “respectively.”

Question put — passed in the negative; 1 aye, 10 noes.

The delegates from SOUTH CAROLINA, being called on, moved the following amendments, in behalf of their state: —

1st. In article 4, between the words “free inhabitants,” insert “white.”

Passed in the negative; 2 ayes, 8 noes, 1 divided.

2d. In the next line, after the words “these states,” insert “those who refuse to take up arms in defence of the confederacy.”

Passed in the negative; 3 ayes, 8 noes.

3d. After the words “the several states,” insert “according to the law of such states respectively for the government of their own free white inhabitants.”

Passed in the negative; 2 ayes, 8 noes, 1 divided.

4th. After the words “of which the owner is an inhabitant,” insert “except in cases of embargo.”

Passed in the negative; 2 ayes, 9 noes.

5th. In the 1st paragraph of the 5th article, strike out “first Monday in November,” and insert “nineteenth day of April.”

Passed in the negative; 1 ay, 9 noes, 1 divided.

6th. In the 2d paragraph of the 5th article, substitute “three” in the place of “two,” and “two” in the place of “three,” and “four” in the place of “six.”

Passed in the negative; 2 ayes, 9 noes.

7th. In the 3d paragraph, for “committee,” read “grand council.”

Passed in the negative; 1 ay, 9 noes, 1 divided.

8th. In the 1st paragraph of the 6th article, for “prince or state, read “prince or foreign state, except the same be upon the subject of commerce, nor then so as to interfere with any treaty or alliance of the United States made, or treaty proposed, by Congress.”

Passed in the negative; 2 ayes, 9 noes.

9th. In the 2d paragraph of the 6th article, strike out “by some nation of Indians,” and after the words “to invade such state,” insert “or upon requisition to assist a sister state actually invaded or threatened with an invasion.”

Passed in the negative; 3 ayes, 8 noes.

10th. In the 1st paragraph of the 7th article, strike out “of or under the rank of colonel,” and after “shall be appointed,” insert “and commissioned.”

Passed in the negative; 2 ayes, 8 noes, 1 divided.

11th. At the end of the 7th article, add, “The troops to be raised shall be deemed the troops of that state by which they are raised. The Congress, or grand council of the states, may, when they think proper, make requisition to any state for two thirds of the troops to be raised; which requisition shall be binding upon the said states respectively; but the remaining third shall not be liable to be drawn out of the state in which they are raised, without the consent of the executive authority of the same. When any forces are raised, they shall be under the command of the executive authority of the state in which they are so raised, unless they be joined by troops from any other state, in which the Congress, or grand council of the states, may appoint a general officer to take the command of the whole; and until the same can be done, the command shall be in the senior officer present, who shall be amenable for his conduct to the executive authority of the state in which the troops are, and shall be liable to be suspended thereby. The expenses of the troops so to be raised shall be defrayed by the state to which they belong; but when called into service by the United States, they shall be fed and paid at the expense of the United States.”

Passed in the negative; 2 ayes, 9 noes.

12th. In the 1st line of the 8th article, strike out “charges of war and all other.”

Passed in the negative; 2 ayes, 8 noes, 1 divided.

13th. In the same article strike out “according to such mode as the United States in Congress assembled shall from time to time direct and appoint;” and instead of “and improvements thereon shall be estimated,” read “and improvements thereon shall, by periods of years not exceeding ten, as often as may be required by Congress, be generally estimated by persons to be appointed by the legislatures of the respective states to value the same upon oath.”

Passed in the negative; 2 ayes, 9 noes.

14th. In the 1st paragraph of the 9th article, strike out “appointing courts for the trial of piracies and felonies committed on the high seas,” and in lieu thereof, insert “declaring what acts committed on the high seas shall be deemed piracies or felonies.”

Passed in the negative; 2 ayes, 9 noes.

15th. In the 2d paragraph of the 9th article, for “be the last resort on appeal,” read “decide and determine,” and strike out “all that relates to the mode of settling differences between states and controversies concerning private right of soil.”

Passed in the negative; 2 ayes, 9 noes.



16th. In the 5th paragraph of the 9th article, after the words "in any term of," strike out "three," and insert "two."

Passed in the negative; 3 ayes, 7 noes, 1 divided.

17th. In the 6th paragraph of the 9th article, for "unless nine states," read "unless eleven states."

Passed in the negative; 2 ayes, 9 noes.

18th. At the end of the same paragraph, strike out the words "in Congress assembled."

Passed in the negative; 1 ay, 10 noes.

19th. In the last paragraph of the 9th article, after the words "and the yeas and nays of the delegates of each state on," for "any," read "every," and strike out the words "when it is desired by any delegate."

Passed in the negative; 2 ayes, 9 noes.

20th. In the same sentence, strike out "a state or," and also "at his or their request;" and after the words "and the," insert "respective states of the," and after "shall," insert "upon requisition."

Passed in the negative; 1 ay, 10 noes.

21st. Amend the last clause of the 13th article, so as to read "unless such alteration be agreed to by eleven of the United States in Congress assembled, and be afterwards confirmed by the legislatures of eleven of the United States."

Passed in the negative; 3 ayes, 6 noes, 2 divided.

## PROCEEDINGS WHICH LED TO THE ADOPTION OF THE CONSTITUTION OF THE UNITED STATES.

SATURDAY, *February 3*, 1781. — The order of the day (being a report concerning the laying a duty of five per cent.) was called for, when a motion was made by Mr. Witherspoon, seconded by Mr. Burke, —

"That it is indispensably necessary that the United States in Congress assembled should be vested with a right of superintending the commercial regulations of every state, that none may take place that shall be partial or contrary to the common interest; and that they should be vested with the exclusive right of laying duties upon all imported articles; no restriction to be valid, and no such duty to be laid, but with the consent of nine states; provided, that all duties and imposts laid by the United States in Congress assembled, shall always be a certain proportion of the value of the article or articles on which the same shall be laid; and the same articles shall bear the same duty and impost throughout the said states without exemption; and provided, that all such duties and imposts shall be for the perfecting of certain specified purposes, which purposes being perfected, the said duties and imposts so appropriated shall cease; provided also, that the United States in Congress assembled shall not be empowered to appropriate any duties or imposts for perpetual annuities, or other perpetual or indefinite interests, or for annuities for more than three lives at the same time in being, or for a longer term than — years."

On the question to agree to this, the yeas and nays being required by Mr. Mathews, it passed in the negative.

Congress resumed the consideration of the report of the committee of the whole, (for laying a duty of five per cent. ;)

And on the question to insert the words [to transfer the power to lay the duty from the states to Congress] moved to be inserted, the yeas and nays were required ; and it was resolved in the affirmative.

The report of the committee of the whole, being amended, was agreed to, as follows :—

*Resolved*, That it be recommended to the several states, as indispensably necessary, that they vest a power in Congress to levy, for the use of the United States, a duty of five per cent: *ad valorem*, at the time and place of importation, upon all goods, wares, and merchandise, of foreign growth and manufacture, which may be imported into any of the said states from any foreign port, island, or plantation, after the 1st day of May, 1781 ; except arms, ammunition, clothing, and other articles imported on account of the United States, or any of them ; and except wool cards and cotton cards, and wire for making them ; and also except salt, during the war.

Also a like duty of five per cent. on all prizes and prize goods, condemned in the court of admiralty of any of these states as lawful prize.

That the moneys arising from the said duties be appropriated to the discharge of the principal and interest of the debts already contracted, or which may be contracted, on the faith of the United States, for supporting the present war.

That the said duties be continued until the said debts shall be fully and finally discharged.

FRIDAY, April 18, 1783.—Congress proceeded in the consideration of the report, (concerning duties and revenues ;) and sundry amendments being made, —

*Resolved, by nine states*, That it be recommended to the several states, as indispensably necessary to the restoration of public credit, and to the punctual and honorable discharge of the public debts, to invest the United States in Congress assembled with a power to levy, for the use of the United States, the following duties upon goods imported into the said states from any foreign port, island, or plantation :—

Upon all rum of Jamaica proof, per gallon,.....	4-90ths	of a dollar.
Upon all other spirituous liquors, .....	3-90ths	ditto.
Upon Madeira wine, .....	12-90ths	ditto.
Upon all other wines,.....	6-90ths	ditto.
Upon common Bohea tea, per lb.,.....	6-90ths	ditto.
Upon all other teas,.....	24-90ths	ditto.
Upon pepper, per lb.,.....	3-90ths	ditto.
Upon brown sugar, per lb.,.....	$\frac{1}{2}$ -90th	ditto.
Upon loaf sugar, .....	2-90ths	ditto.
Upon all other sugars, .....	1-90th	ditto.
Upon molasses, per gallon,.....	1-90th	ditto.
Upon cocoa and coffee, per lb,.....	1-90th	ditto.
Upon all other goods, a duty of five per cent. <i>ad valorem</i> , at the time and place of importation.		

*Provided*, That none of the said duties shall be applied to any other purpose than the discharge of the interest or principal of the debts contracted, on the faith of the United States, for supporting the war, agreeably to the resolution of the 16th day of December last, nor be continued for a longer term than twenty-five years ; and *provided*, that the collectors of the said duties shall be appointed by the states within which their offices are to be respectively exercised ; but when so appointed, shall be amenable to, and

removable by, the United States in Congress assembled, alone; and in case any state shall not make such appointment within one month after notice given for that purpose, the appointment may be made by the United States in Congress assembled.

That it be further recommended to the several states to establish, for a term limited to twenty-five years, and to appropriate to the discharge of the interest and principal of the debts contracted on the faith of the United States for supporting the war, substantial and effectual revenues, of such nature as they may judge most convenient, for supplying their respective proportions of one million five hundred thousand dollars, annually, exclusive of the afore-mentioned duties, which proportion shall be fixed and equalized from time to time, according to the rule which is, or may be, prescribed by the Articles of Confederation; and in case the revenues established by any state shall at any time yield a sum exceeding its actual proportion, the excess shall be refunded to it; and in case the revenues of any state shall be found to be deficient, the immediate deficiency shall be made up by such state with as little delay as possible, and a future deficiency guarded against by an enlargement of the revenues established; *provided*, that, until the rule of the Confederation can be carried into practice, the proportions of the said one million five hundred thousand dollars shall be as follows, viz. :—

New Hampshire,.....	52,708	Delaware,.....	22,443
Massachusetts, .....	224,427	Maryland,.....	141,517
Rhode Island,.....	32,318	Virginia,.....	256,437
Connecticut,.....	132,091	North Carolina,.....	109,006
New York,.....	123,243	South Carolina,.....	96,183
New Jersey,.....	83,358	Georgia,.....	16,030
Pennsylvania,.....	205,189		

The said last-mentioned revenues to be collected by persons appointed as aforesaid, but to be carried to the separate credit of the states within which they shall be collected.

That an annual account of the proceeds and application of all the afore-mentioned revenues shall be made out and transmitted to the several states, distinguishing the proceeds of each of the specified articles, and the amount of the whole revenue received from each state, together with the allowances made to the several officers employed in the collection of the said revenues.

That none of the preceding resolutions shall take effect until all of them shall be acceded to by every state; after which unanimous accession, however, they shall be considered as forming a mutual compact among all the states, and shall be irrevocable by any one or more of them, without the concurrence of the whole, or a majority of the United States in Congress assembled.

That, as a further mean, as well of hastening the extinguishment of the debts, as of establishing the harmony of the United States, it be recommended to the states which have passed no acts towards complying with the resolutions of Congress of the 6th of September, and 10th of October, 1780, relative to the cession of territorial claims, to make the liberal cessions therein recommended, and to the states which may have passed acts complying with the said resolutions in part only, to revise and complete such compliance.

That, as a more convenient and certain rule of ascertaining the proportions to be supplied by the states respectively to the common treasury,

the following alteration in the Articles of Confederation and Perpetual Union between these states, be, and the same is hereby agreed to in Congress; and the several states are advised to authorize their respective delegates to subscribe and ratify the same, as part of the said instrument of union, in the words following, to wit:—

So-much of the 8th of the Articles of Confederation and Perpetual Union, between the thirteen states of America, as is contained in the words following, to wit, “All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land, and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled shall from time to time direct and appoint,” is hereby revoked and made void; and in place thereof, it is declared and concluded, the same having been agreed to in a Congress of the United States, that all charges of war, and all other expenses, that have been, or shall be, incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each state; which number shall be triennially taken and transmitted to the United States in Congress assembled, in such mode as they shall direct and appoint.

On the question to agree to the foregoing act, the yeas and nays being required by Mr. Arnold:

<i>New Hampshire</i> , . . . . .	Mr. White, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>Massachusetts</i> , . . . . .	Mr. Holten, . . . . .	<i>Ay.</i>	
	Mr. Osgood, . . . . .	<i>Ay.</i>	
	Mr. Gorham, . . . . .	<i>Ay.</i>	
	Mr. Higginson . . . . .	<i>Ay.</i>	} <i>No.</i>
<i>Rhode Island</i> , . . . . .	Mr. Collins, . . . . .	<i>No.</i>	
	Mr. Arnold, . . . . .	<i>No.</i>	} <i>Ay.</i>
<i>Connecticut</i> , . . . . .	Mr. Ellsworth, . . . . .	<i>Ay.</i>	
	Mr. Dyer, . . . . .	<i>Ay.</i>	} <i>Divided.</i>
<i>New York</i> , . . . . .	Mr. Floyd, . . . . .	<i>Ay.</i>	
	Mr. Hamilton, . . . . .	<i>No.</i>	} <i>Ay.</i>
<i>New Jersey</i> , . . . . .	Mr. Boudinot, . . . . .	<i>Ay.</i>	
	Mr. Clarke, . . . . .	<i>Ay.</i>	
	Mr. Condict, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>Pennsylvania</i> , . . . . .	Mr. Fitzsimmons, . . . . .	<i>Ay.</i>	
	Mr. Peters, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>Delaware</i> , . . . . .	Mr. M'Comb, . . . . .	<i>Ay.</i>	
	Mr. Bedford, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>Maryland</i> , . . . . .	Mr. T. S. Lee, . . . . .	<i>Ay.</i>	
	Mr. Carroll, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>Virginia</i> , . . . . .	Mr. Jones, . . . . .	<i>Ay.</i>	
	Mr. Madison, . . . . .	<i>Ay.</i>	
	Mr. Mercer, . . . . .	<i>Ay.</i>	
	Mr. Bland, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>North Carolina</i> , . . . . .	Mr. Hawkins, . . . . .	<i>Ay.</i>	
	Mr. Williamson, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
<i>South Carolina</i> , . . . . .	Mr. Rutledge, . . . . .	<i>Ay.</i>	
	Mr. Gervais, . . . . .	<i>Ay.</i>	
	Mr. Izard, . . . . .	<i>Ay.</i>	

o it was resolved in the affirmative.



SATURDAY, *April 26, 1783.*—The committee, consisting of *Mr. Madison, Mr. Ellsworth, and Mr. Hamilton,* appointed to prepare an address to the states, to accompany the act of the 18th of this month, reported a draft, which, being read and amended, was agreed to, as follows:—

ADDRESS TO THE STATES, BY THE UNITED STATES IN CONGRESS ASSEMBLED.

*To accompany the Act of April 18, 1783.*

The prospect which has for some time existed, and which is now happily realized, of a successful termination of the war, together with the critical exigencies of public affairs, has made it the duty of Congress to review and provide for the debts which the war has left upon the United States, and to look forward to the means of obviating dangers which may interrupt the harmony and tranquillity of the confederacy. The result of their mature and solemn deliberations, on these great objects, is contained in their several recommendations of the 18th inst., herewith transmitted. Although these recommendations speak themselves the principles on which they are founded, as well as the ends which they propose, it will not be improper to enter into a few explanations and remarks, in order to place in a stronger view the necessity of complying with them.

The first measure recommended is, effectual provision for the debts of the United States. The amount of these debts, as far as they can now be ascertained, is 42,000,375 dollars. To discharge the principal of this aggregate debt at once, or in any short period, is evidently not within the compass of our resources; and, even if it could be accomplished, the ease of the community would require that the debt itself should be left to a course of gradual extinguishment, and certain funds be provided for paying, in the mean time, the annual interest. The amount of the annual interest is computed to be 2,415,956 dollars. Funds, therefore, which will certainly and punctually produce this annual sum, at least, must be provided.

OBSERVATIONS ON REVENUE.

In devising these funds, Congress did not overlook the mode of supplying the common treasury, provided by the Articles of Confederation; but, after the most respectful consideration of that mode, they were constrained to regard it as inadequate, and inapplicable to the form into which the public debt must be thrown. The delays and uncertainties incident to a revenue to be established and collected, from time to time, by thirteen independent authorities, is, at first view, irreconcilable with the punctuality essential in the discharge of the interest of a national debt. Our own experience, after making every allowance for transient impediments, has been a sufficient illustration of this truth. Some departure, therefore, in the recommendation of Congress, from the Federal Constitution, was unavoidable; but it will be found to be as small as could be reconciled with the object in view, and to be supported, besides, by solid considerations of interest and sound policy.

The fund which presented itself on this, as it did on a former occasion, was a tax on imports. The reasons which recommended this branch of revenue have heretofore been stated in an act, of which a copy, No. 2, is now forwarded, and need not be here repeated. It will suffice to recapitulate, that taxes on consumption are always least burdensome, because

they are least felt, and are borne too by those who are both willing and able to pay them; that, of all taxes on consumption, those on foreign commerce are most compatible with the genius and policy of free states; that, from the relative positions of some of the more commercial states, it will be impossible to bring this essential resource into use without a concerted uniformity; that this uniformity cannot be concerted through any channel so properly as through Congress, nor for any purpose so aptly as for paying the debts of a revolution, from which an unbounded freedom has accrued to commerce.

In renewing this proposition to the states, we have not been unmindful of the objections which heretofore frustrated the unanimous adoption of it. We have limited the duration of the revenue to the term of twenty-five years; and we have left to the states themselves the appointment of the officers who are to collect it. If the strict maxims of national credit alone were to be consulted, the revenue ought manifestly to be coexistent with the object of it, and the collection placed in every respect under that authority which is to dispense the former, and is responsible for the latter. These relaxations will, we trust, be regarded, on one hand, as the effect of a disposition in Congress to attend, at all times, to the sentiments of those whom they serve, and, on the other hand, as a proof of their anxious desire that provision may be made, in some way or other, for an honorable and just fulfilment of the engagements which they have formed.

To render this fund as productive as possible, and, at the same time, to narrow the room for collusions and frauds, it has been judged an improvement of the plan, to recommend a liberal duty on such articles as are most susceptible of a tax according to their quantity, and are of most equal and general consumption; leaving all other articles, as heretofore proposed, to be taxed according to their value.

The amount of this fund is computed to be 915,956 dollars. Accuracy, in the first essay, on so complex and fluctuating a subject, is not to be expected. It is presumed to be as near the truth as the defect of proper materials would admit.

The residue of the computed interest is 1,500,000 dollars, and is referred to the states to be provided for by such funds as they may judge most convenient. Here, again, the strict maxims of public credit gave way to the desire of Congress to conform to the sentiments of their constituents. It ought not to be omitted, however, with respect to this portion of the revenue, that the mode in which it is to be supplied varies so little from that pointed out in the Articles of Confederation, and the variations are so conducive to the great object proposed, that a ready and unqualified compliance on the part of the states may be the more justly expected. In fixing the quotas of this sum, Congress, as may be well imagined, were guided by very imperfect lights, and some inequalities may consequently have ensued. These, however, can be but temporary, and, as far as they may exist at all, will be redressed by a retrospective adjustment, as soon as a constitutional rule can be applied.

The necessity of making the two foregoing provisions one indivisible and irrevocable act, is apparent. Without the first quality, partial provision only might be made where complete provision is essential; nay, as some states might prefer and adopt one of the funds only, and the other states the other fund only, it might happen that no provision at all would be made: without the second, a single state, out of the thirteen, might at any time involve the nation in bankruptcy, the mere practicability

of which would be a fatal bar to the establishment of national credit. Instead of enlarging on these topics, two observations are submitted to the justice and wisdom of the legislatures. First, the present creditors, or rather the domestic part of them, having either made their loans for a period which has expired, or having become creditors, in the first instance, involuntarily, are entitled, on the clear principles of justice and good faith, to demand the principal of their credits, instead of accepting the annual interest. It is necessary, therefore, as the principal cannot be paid to them on demand, that the interest should be so effectually and satisfactorily secured, as to enable them, if they incline, to transfer their stock at its full value. Secondly, if the funds be so firmly constituted as to inspire a thorough and universal confidence, may it not be hoped that the capital of the domestic debt, which bears the high interest of six per cent., may be cancelled by other loans obtained at a more moderate interest? The saving by such an operation would be a clear one, and might be a considerable one.

Thus much for the interest of the national debt : for the discharge of the principal within the term limited, we rely on the natural increase of the revenue from commerce, on requisitions to be made from time to time for that purpose, as circumstances may dictate, and on the prospect of vacant territory. If these resources should prove inadequate, it will be necessary, at the expiration of twenty-five years, to continue the funds now recommended, or to establish such others as may then be found more convenient.

With a view to the resource last mentioned, as well as to obviate disagreeable controversies and confusions, Congress have included in their present recommendations a renewal of those of the 6th day of September, and of the 10th day of October, 1780. In both these respects, a liberal and final accommodation of all interfering claims of vacant territory is an object which cannot be pressed with too much solicitude.

The last object recommended is a constitutional change of the rule by which a partition of the common burdens is to be made. The expediency, and even necessity, of such a change, has been sufficiently enforced by the local injustice and discontents which have proceeded from valuations of the soil in every state where the experiment has been made. But how infinitely must these evils be increased, on a comparison of such valuations among the states themselves! On whatever side, indeed, this rule be surveyed, the execution of it must be attended with the most serious difficulties. If the valuations be referred to the authorities of the several states, a general satisfaction is not to be hoped for. If they be executed by officers of the United States traversing the country for that purpose, besides the inequalities against which this mode would be no security, the expense would be both enormous and obnoxious. If the mode taken in the act of the 17th day of February last, which was deemed, on the whole, least objectionable, be adhered to, still the insufficiency of the data to the purpose to which they are to be applied must greatly impair, if not utterly destroy, all confidence in the accuracy of the result; not to mention that, as far as the result can be at all a just one, it will be indebted, for that advantage, to the principle on which the rule proposed to be substituted is founded. This rule, although not free from objections, is liable to fewer than any other that could be devised. The only material difficulty which attended it in the deliberations of Congress, was to fix the proper difference between the labor and industry of free inhabitants and of all other inhabitants. The ratio ultimately agreed

on was the effect of mutual concessions; and if it should be supposed not to correspond precisely with the fact, no doubt ought to be entertained that an equal spirit of accommodation among the several legislatures will prevail against little inequalities which may be calculated on one side or on the other. But notwithstanding the confidence of Congress, as to the success of this proposition, it is their duty to recollect that the event may possibly disappoint them, and to request that measures may still be pursued for obtaining and transmitting the information called for in the act of the 17th of February last, which, in such event, will be essential.

The plan thus communicated and explained by Congress must now receive its fate from their constituents. All the objects comprised in it are conceived to be of great importance to the happiness of this confederated republic — are necessary to render the fruits of the revolution a full reward for the blood, the toils, the cares, and the calamities which have purchased it. But the object, of which the necessity will be peculiarly felt, and which it is peculiarly the duty of Congress to inculcate, is the provision recommended for the national debt. Although this debt is greater than could have been wished, it is still less, or the whole, than could have been expected; and, when referred to the cause in which it has been incurred, and compared with the burdens which wars of ambition and of vain glory have entailed on other nations, ought to be borne not only with cheerfulness; but with pride. But the magnitude of the debt makes no part of the question. It is sufficient that the debt has been fairly contracted, and that justice and good faith demand that it should be fully discharged. Congress had an option between different modes of discharging it. The same option is the only one that can exist with the states. The mode which has, after long and elaborate discussion, been preferred, is, we are persuaded, the least objectionable of any that would have been equal to the purpose. Under this persuasion, we call upon the justice and plighted faith of the several states to give it its proper effect, to reflect on the consequences of rejecting it, and to remember that Congress will not be answerable for them.

If other motives than that of justice could be requisite on this occasion, no nation could ever feel stronger; for to whom are the debts to be paid?

To *an ally*, in the first place, who, to the exertion of his arms in support of our cause, has added the succors of his treasure; who, to his important loans, has added liberal donations; and whose loans themselves carry the impression of his magnanimity and friendship.

To *individuals in a foreign country*, in the next place, who were the first to give so precious a token of their confidence in our justice, and of their friendship for our cause, and who are members of a republic which was second in espousing our rank among nations.

Another class of creditors is *that illustrious and patriotic band of fellow-citizens*, whose blood and whose bravery have defended the liberties of their country; who have patiently borne, among other distresses, the privation of their stipends, whilst the distresses of their country disabled it from bestowing them; and who, even now, ask for no more than such a portion of their dues as will enable them to retire from the field of victory and glory into the bosom of peace and private citizenship, and for such effectual security, for the residue of their claims, as their country is now unquestionably able to provide.

The remaining class of creditors is composed partly of such of our fellow-citizens as originally lent to the public the use of their funds, or have



since manifested most confidence in their country, by receiving transfers from the lenders; and partly of those whose property has been either advanced or assumed for the public service. To discriminate the merits of these several descriptions of creditors, would be a task equally unnecessary and invidious. If the voice of humanity plead more loudly in favor of some than of others, the voice of policy, no less than of justice, pleads in favor of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its firmness, and its resources, when either of them is distrusted, to suffer by the event.

Let it be remembered, finally, that it has ever been the pride and boast of America, that the rights for which she contended were the rights of human nature. By the blessings of the Author of these rights on the means exerted for their defence, they have prevailed against all opposition, and form the basis of thirteen independent states. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of republican government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view, the citizens of the United States are responsible for the greatest trust ever confided to a political society. If justice, good faith, honor, gratitude, and all the other qualities which ennoble the character of a nation, and fulfil the ends of government, be the fruits of our establishments, the cause of liberty will acquire a dignity and lustre which it has never yet enjoyed, and an example will be set which cannot but have the most favorable influence on the rights of mankind. If, on the other side, our governments should be unfortunately blotted with the reverse of these cardinal and essential virtues, the great cause which we have engaged to vindicate will be dishonored and betrayed, the last and fairest experiment in favor of the rights of human nature will be turned against them, and their patrons and friends exposed to be insulted and silenced by the votaries of tyranny and usurpation.

By order of the United States in Congress assembled.

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PAPER NO. II.

REPLY TO THE RHODE ISLAND OBJECTIONS, TOUCHING IMPORT DUTIES.

*“By the United States in Congress assembled, December 16, 1782.*

“The committee, consisting of Mr. Hamilton, Mr. Madison, and Mr Fitzsimmons, to whom was referred the letter of 30th November, from the Honorable William Bradford, speaker of the lower house of Assembly of the state of Rhode Island, containing, under three heads, the reasons of that state for refusing their compliance with the recommendation of Congress for a duty on imports and prize goods, report, —

“That they flatter themselves the state, on a reconsideration of the objections they have offered, with a candid attention to the arguments which stand in opposition to them, will be induced to retract their dissent, convinced that the measure is supported on the most solid grounds of equal justice, policy, and general utility. The following observations, contrasted with each head of the objections, successively, will furnish a satisfactory answer to the whole :—

“*First Objection.* — ‘That the proposed duty would be unequal in its operation, bearing hardest upon the most commercial states, and so would press peculiarly hard upon that state which draws its chief support from commerce.’

‘The most common experience, joined to the concurrent opinions of the ablest commercial and political observers, has established, beyond controversy, this general principle, ‘that every duty on imports is incorporated with the price of the commodity, and ultimately paid by the consumer, with a profit on the duty itself, as a compensation to the merchant for the advance of his money.’

‘The merchant considers the duty demanded by the state on the imported article in the same light with freight, or any similar charge, and, adding it to the original cost, calculates his profit on the aggregate sum. It may happen that, at particular conjunctures, where the markets are overstocked, and there is a competition among the sellers, this may not be practicable; but in the general course of trade, the demand for consumption preponderates, and the merchant can with ease indemnify himself, and even obtain a profit on the advance. As a consumer, he pays his share of the duty but it is no further a burden upon him. The consequence of the principle laid down is, that every class of the community bears its share of the duty in proportion to its consumption, which last is regulated by the comparative wealth of the respective classes, in conjunction with their habits of expense or frugality. The rich and luxurious pay in proportion to their riches and luxury; the poor and parsimonious, in proportion to their poverty and parsimony. A chief excellence of this mode of revenue is, that it preserves a just measure to the abilities of individuals, promotes frugality, and taxes extravagance. The same reasoning, in our situation, applies to the intercourse between two states; if one imports and the other does not, the latter must be supplied by the former. The duty, being transferred to the price of the commodity, is no more a charge on the importing state for what is consumed in the other, than it is a charge on the merchant for what is consumed by the farmer or artificer. Either state will only feel the burden in a ratio to its consumption, and this will be in a ratio to its population and wealth. What happens between the different classes of the same community, internally, happens between the two states; and as the merchant, in the first case, so far from losing the duty himself, has a profit on the money he advances for that purpose, so the importing state, which, in the second case, is the merchant with respect to the other, is not only reimbursed by the non-importing state, but has a like benefit on the duty advanced. It is, therefore, the reverse of a just position, that the duty proposed will bear hardest on the most commercial states: it will, if any thing, have a contrary effect, though not in a sufficient degree to justify an objection on the part of the non-importing states; for it is as reasonable they should allow an advance on the duty paid as on the first cost, freight, or any incidental charge. They have also other advantages in the measure fully equivalent to this disadvantage. Over-nice and minute calculations, in matters of this nature are inconsistent with national measures, and, in the imperfect state of human affairs, would stagnate all the operations of government. Absolute equality is not to be obtained; to aim at it, is pursuing a shadow at the expense of the substance; and in the event we should find ourselves wider of the mark than if, in the first instance, we were content to approach it with moderation.

“*Second Objection.* — ‘That the recommendation proposes to introduce

into that and the other states officers unknown and unaccountable to them, and so is against the Constitution of the state.'

"It is not to be presumed that the constitution of any state could mean to define and fix the precise numbers and descriptions of all officers to be permitted in the state, excluding the creation of any new ones, whatever might be the necessity derived from that variety of circumstances incident to all political institutions. The legislature must always have a discretionary power of appointing officers, not expressly known to the Constitution, and this power will include that of authorizing the federal government to make the appointments in cases where the general welfare may require it. The denial of this would prove too much; to wit, that the power given by the Confederation to Congress, to appoint all officers in the post-office, was illegal and unconstitutional.

"The doctrine advanced by Rhode Island would perhaps prove, also, that the federal government ought to have the appointment of no internal officers whatever — a position that would defeat all the provisions of the Confederation, and all the purposes of the union. The truth is, that no federal constitution can exist without powers that, in their exercise, affect the internal police of the component members. It is equally true that no government can exist without a right to appoint officers for those purposes which proceed from and centre in itself; and therefore the Confederation has expressly declared that Congress shall have authority to appoint all such 'civil officers as may be necessary for managing the general affairs of the United States under their direction.' All that can be required is, that the federal government confine its appointments to such as it is empowered to make by the original act of union, or by the subsequent consent of the parties. Unless there should be express words of exclusion in the constitution of a state, there can be no reason to doubt that it is within the compass of legislative discretion to communicate that authority.

"The propriety of doing it, upon the present occasion, is founded on substantial reasons.

"The measure proposed is a measure of necessity. Repeated experiments have shown that the revenue to be raised within these states is altogether inadequate to the public wants. The deficiency can only be supplied by loans. Our applications to the foreign powers, on whose friendship we depend, have had a success far short of our necessities. The next resource is to borrow from individuals. These will neither be actuated by generosity nor reasons of state. It is to their interest alone we must appeal. To conciliate this, we must not only stipulate a proper compensation for what they lend, but we must give security for the performance. We must pledge an ascertained fund, simple and productive in its nature, general in its principle, and at the disposal of a single will. There can be little confidence in a security under the constant revisal of thirteen different deliberatives. It must, once for all, be defined and established on the faith of the states solemnly pledged to each other, and not revocable by any without a breach of the general compact.

"It is by such expedients that nations, whose resources are understood, whose reputations and governments are erected on the foundation of ages, are enabled to obtain a solid and extensive credit. Would it be reasonable in us to hope for more easy terms, who have so recently assumed our rank among the nations? Is it not to be expected that individuals will be cautious in lending their money to a people in our circumstances and that they will at least require the best security we can give?

“ We have an enemy vigilant, intriguing, well acquainted with our defects and embarrassments. We may expect that he will make every effort to instil diffidences into individuals; and in the present posture of our internal affairs, he will have too plausible ground on which to tread. Our necessities have obliged us to embrace measures, with respect to our public credit, calculated to inspire distrust. The prepossessions on this article must naturally be against us, and it is therefore indispensable we should endeavor to remove them, by such means as will be the most obvious and striking.

“ It was with these views Congress determined on a general fund; and the one they have recommended must, upon a thorough examination, appear to have fewer inconveniences than any other.

“ It has been remarked, as an essential part of the plan, that the fund should depend on a single will. This will not be the case, unless the collection, as well as the appropriation, is under the control of the United States; for it is evident that, after the duty is agreed upon, it may, in a great measure, be defeated by an ineffectual mode of levying it. The United States have a common interest in a uniform and equally energetic collection; and not only policy, but justice to all parts of the Union, designates the utility of lodging the power of making it where the interest is common. Without this, it might, in reality, operate as a very *unequal tax*.

“ *Third Objection.* — ‘ That, by granting to Congress a power to collect moneys from the commerce of these states, indefinitely as to time and quantity, and for the expenditure of which they are not to be accountable to the states, they would become independent of their constituents and so the proposed impost is repugnant to the liberty of the United States.

“ Admitting the principle of this objection to be true, still it ought to have no weight in the present case, because there is no analogy between the principle and the fact.

“ *First.* The fund proposed is sufficiently definite as to time, because it is only coëxtensive with the existence of the debt contracted, and to be contracted, in the course of the war. Congress are persuaded that it is as remote from the intention of their constituents to perpetuate that debt, as to extinguish it at once by a faithless neglect of providing the means to fulfil the public engagements. Their ability to discharge it in a moderate time can as little be doubted as their inclination; and the moment that debt ceases, the duty, so far as respects the present provision, ceases with it.

“ The resolution recommending the duty specifies the object of it to be the discharge of the principal and interest of the debts already contracted, or which may be contracted, on the faith of the United States, for supporting the present war.

“ *Secondly.* The rate per cent. is fixed, and it is not at the option of the United States to increase it. Though the product will vary according to the variations in trade, yet, as there is this limitation of the rate, it cannot be properly said to be indefinite as to the quantity.

“ By the Confederation, Congress have an absolute discretion in determining the quantum of revenue requisite for the national expenditure. When this is done, nothing remains for the states, separately, but the mode of raising. No state can dispute the obligation to pay the sum demanded without a breach of the Confederation; and when the money comes into the treasury, the appropriation is the exclusive province of the



federal government. This provision of the Confederation (without which it would be an empty form) comprehends in it the principle in its fullest latitude, which the objection under consideration treats as repugnant to the liberties of the United States; to wit, an indefinite power of prescribing the quantity of money to be raised, and of appropriating it when raised.

“If it be said that the states individually, having the collection in their own hands, may refuse a compliance with exorbitant demands, the Confederation will answer, that this is a point of which they have no constitutional liberty to judge. Such a refusal would be an exertion of power, not of right, and the same power which could disregard a requisition made on the authority of the Confederation might at any time arrest the collection of the duty.

“The same kind of responsibility which exists with respect to the expenditure of the money furnished in the forms hitherto practised, would be equally applicable to the revenue from the imports

“The truth is, the security intended to the general liberty in the Confederation, consists in the frequent election, and in the rotation of the members of Congress, by which there is a constant and effectual check upon them. This is the security which the people in every state enjoy against the usurpations of their internal governments, and it is the true source of security in a representative republic. The government, so constituted, ought to have the means necessary to answer the end of its institution. By weakening its hands too much, it may be rendered incapable of providing for the interior harmony, or the exterior defence, of the state.

“The measure in question, if not within the letter, is within the spirit, of the Confederation. Congress, by that, are empowered to borrow money for the use of the United States, and, by implication, to concert the means necessary to accomplish the end. But without insisting upon this argument, if the Confederation has not made proper provision for the exigencies of the states, it will be at all times the duty of Congress to suggest further provisions; and when their proposals are submitted to the unanimous consent of the states, they can never be charged with exceeding the bounds of their trust. Such a consent is the basis and sanction of the Confederation, which expressly, in the 13th article, empowers Congress to agree to and propose such additional provisions.

“The remarks hitherto made have had reference principally to the future prosecution of the war. There still remains an interesting light, in which the subject ought to be viewed.

“The United States have already contracted a debt in Europe, and in this country, for which their faith is pledged. The capital of this debt can only be discharged by degrees; but a fund for this purpose, and for paying the interest annually, on every principle of policy and justice, ought to be provided. The omission will be the deepest ingratitude and cruelty to a large number of meritorious individuals, who, in the most critical periods of the war, have adventured their fortunes in supporting our independence. It would stamp the national character with indelible disgrace.

“An annual provision for the purpose will be too precarious. If its continuance and application were certain, it would not afford complete relief. With many, the regular payment of interest, by occasional grants, would suffice; but with many more it would not. These want the use

of the principal itself, and they have a right to it; but since it is not in our power to pay off the principal, the next expedient is to fund the debt and render the evidences of it negotiable.

“ Beside the advantage to individuals from this arrangement, the active stock of the nation would be increased by the whole amount of the domestic debt, and of course the abilities of the community to contribute to the public wants; the national credit would revive, and stand hereafter on a secure basis.

“ This was another object of the proposed duty.

“ If it be conceded that a similar fund is necessary, it can hardly be disputed that the one recommended is the most eligible. It has been already shown that it affects all parts of the community in proportion to their consumption, and has therefore the best pretensions to equality. It is the most agreeable tax to the people that can be imposed, because it is paid insensibly, and seems to be voluntary.

“ It may, perhaps, be imagined that it is unfavorable to commerce; but the contrary can easily be demonstrated. It has been seen that it does not diminish the profit of the merchant, and of course can be no diminution of his inducements to trade. It is too moderate in its amount to discourage the consumption of imported goods, and cannot, on that account, abridge the extent of importations. If it even had this effect, it would be an advantage to commerce by lessening the proportion of our imports to our exports, and inclining the balance in favor of this country.

“ The principal thing to be consulted for the advancement of commerce, is to promote exports. All impediments to these, either by way of prohibiting, or by increasing the prices of native commodities, decreasing, by that means, their sale and consumption at foreign markets, are injurious. Duties on exports have this operation. For the same reason, taxes on possessions, and the articles of our own growth or manufacture, whether in the form of a land tax, excise, or any other, are more hurtful to trade than impost duties. The tendency of all such taxes is to increase the prices of those articles which are the objects of exportation, and to enable others to undersell us abroad. The farmer, if he pays a heavy land tax, must endeavor to get more for the products of his farm. The mechanic and laborer, if they find the necessaries of life grow dearer by an excise, must endeavor to exact higher wages; and these causes will produce an increase of prices within, and operate against foreign commerce.

“ It is not, however, to be inferred that the whole revenue ought to be drawn from imports; all extremes are to be rejected. The chief thing to be attended to is, that the weight of the taxes fall not too heavily, in the first instance, upon particular parts of the community. A judicious distribution to all kinds of taxable property is a first principle in taxation. The tendency of these observations is only to show that taxes on possessions, on articles of our own growth and manufacture, are more prejudicial to trade than duties on imports.

“ The observations which conclude the letter on which these remarks are made, naturally lead to reflections that deserve the serious attention of every member of the Union. There is a happy mean between too much confidence and excessive jealousy, in which the health and prosperity of a state consist. Either extreme is a dangerous vice: the first is a temptation to men in power to arrogate more than they have a right to the latter enervates government, prevents system in the administration defeats the most salutary measures, breeds confusion in the state, disgusts

and discontents among the people, and may eventually prove as fatal to liberty as the opposite temper.

“It is certainly pernicious to leave any government in a situation of responsibility disproportioned to its power.

“The conduct of the war is intrusted to Congress, and the public expectation turned upon them, without any competent means at their command to satisfy the important trust. After the most full and solemn deliberation, under a collective view of all the public difficulties, they recommend a measure which appears to them the corner-stone of the public safety: they see this measure suspended for near two years; partially complied with by some of the states; rejected by one of them, and in danger, on that account, to be frustrated; the public embarrassments every day increasing; the dissatisfaction of the army growing more serious, the other creditors of the public clamoring for justice; both irritated by the delay of measures for their present relief or future security; the hopes of our enemies encouraged to protract the war; the zeal of our friends depressed by an appearance of remissness and want of exertion on our part; Congress harassed; the national character suffering, and the national safety at the mercy of events.

“This state of things cannot but be extremely painful to Congress, and appears to your committee to make it their duty to be urgent to obviate the evils with which it is pregnant.”

*Resolved*, That Congress agree to the said report.

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## POWERS OF CONGRESS TO REGULATE COMMERCE.

FRIDAY, April 30, 1784. — Congress took into consideration the report of a committee, consisting of Mr. Gerry, Mr. Reed, Mr. Williamson, Mr. Chase, and Mr. Jefferson, to whom were referred sundry letters and papers relative to commercial matters; and the following paragraph being under debate, —

“That it be recommended to the legislatures of the several states to vest the United States in Congress assembled, for the term of fifteen years, with a power to prohibit any goods, wares, or merchandise, from being imported into any of the states, except in vessels belonging to, and navigated by, citizens of the United States, or the subjects of foreign powers with whom the United States may have treaties of commerce,” —

A motion was made by Mr. Howell, seconded by Mr. Ellery, to postpone the consideration thereof, in order to take up the following: —

“That it be recommended to the legislatures of the several states to restrain, by imposts or prohibitions, any goods, wares, or merchandise, from being imported into them respectively, except in vessels belonging to, and navigated by, citizens of the United States, or the subjects of foreign powers with whom the United States may have treaties of commerce, or the subjects of such foreign powers as may admit of a reciprocity in their trade with the citizens of these states. That it be recommended to the legislatures of the several states to prohibit the subjects of any foreign state, kingdom, or empire, from importing into them, respectively, any goods, wares, or merchandise, unless such as are the produce or manufacture of that state, kingdom, or empire, whose subjects they are.”

And on the question to postpone, for the purpose above mentioned the yeas and nays being required by Mr. Ellery, —

<i>New Hampshire</i> ,.....	Mr. Foster,.....	<i>No.</i>	} <i>No.</i>
	Mr. Blanchard,.....	<i>No.</i>	
<i>Massachusetts</i> ,.....	Mr. Gerry,.....	<i>No.</i>	} <i>No.</i>
	Mr. Partridge,.....	<i>No.</i>	
<i>Rhode Island</i> ,.....	Mr. Ellery,.....	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Howell,.....	<i>Ay.</i>	
<i>Connecticut</i> ,.....	Mr. Sherman,.....	<i>No.</i>	} <i>Divided.</i>
	Mr. Wadsworth,.....	<i>Ay.</i>	
<i>New York</i> ,.....	Mr. De Witt,.....	<i>No.</i>	} <i>No.</i>
	Mr. Paine,.....	<i>No.</i>	
<i>New Jersey</i> ,.....	Mr. Beatty,.....	<i>No.</i>	} <i>No.</i>
	Mr. Dick,.....	<i>No.</i>	
<i>Pennsylvania</i> ,.....	Mr. Mifflin,.....	<i>No.</i>	} <i>No.</i>
	Mr. Montgomery,.....	<i>No.</i>	
<i>Maryland</i> ,.....	Mr. Stone,.....	<i>No.</i>	} <i>No.</i>
	Mr. Chase,.....	<i>No.</i>	
<i>Virginia</i> ,.....	Mr. Mercer,.....	<i>No.</i>	} <i>No.</i>
	Mr. Monroe,.....	<i>No.</i>	
<i>North Carolina</i> ,.....	Mr. Williamson,.....	<i>No.</i>	} <i>No.</i>
	Mr. Spaight,.....	<i>No.</i>	
<i>South Carolina</i> ,.....	Mr. Reed,.....	<i>No.</i>	

So it passed in the negative.

The report, being amended, was agreed to as follows: —

“The trust reposed in Congress renders it their duty to be attentive to the conduct of foreign nations, and to prevent or restrain, as far as may be, all such proceedings as might prove injurious to the United States. The situation of commerce at this time claims the attention of the several states, and few objects of greater importance can present themselves to their notice. The fortune of every citizen is interested in the success thereof; for it is the constant source of wealth and incentive to industry; and the value of our produce and our land must ever rise or fall in proportion to the prosperous or adverse state of trade.

“Already has Great Britain adopted regulations destructive of our commerce with her West India Islands. There was reason to expect that measures so unequal, and so little calculated to promote mercantile intercourse, would not be persevered in by an enlightened nation. But these measures are growing into a system. It would be the duty of Congress, as it is their wish, to meet the attempts of Great Britain with similar restrictions on her commerce; but their powers on this head are not explicit, and the propositions made by the legislatures of the several states render it necessary to take the general sense of the Union on this subject.

“Unless the United States in Congress assembled shall be vested with powers competent to the protection of commerce, they can never command reciprocal advantages in trade; and without these, our foreign commerce must decline, and eventually be annihilated. Hence it is necessary that the states should be explicit, and fix on some effectual mode by which foreign commerce not founded on principles of equality may be restrained.

“That the United States may be enabled to secure such terms, they have

“*Resolved*, That it be, and it hereby is, recommended to the legislatures of the several states, to vest the United States in Congress assembled, for the term of fifteen years, with power to prohibit any goods, wares, or merchandise, from being imported into, or exported from, any of the states, in vessels belonging to, or navigated by, the subjects of any power with whom these states shall not have formed treaties of commerce.



“*Resolved*, That it be, and it hereby is, recommended to the legislatures of the several states, to vest the United States in Congress assembled, for the term of fifteen years, with the power of prohibiting the subjects of any foreign state, kingdom, or empire, unless authorized by treaty, from importing into the United States any goods, wares, or merchandise, which are not the produce or manufacture of the dominions of the sovereign whose subjects they are.

“*Provided*, That to all acts of the United States in Congress assembled, in pursuance of the above powers, the assent of nine states shall be necessary.”

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### REPORT OF THE STATES ON THE REGULATION OF COMMERCE, &c.

FRIDAY, *March 3*, 1786. — The committee, consisting of Mr. Kean, Mr. Gorham, Mr. Pinckney, Mr. Smith, and Mr. Grayson, to whom were recommended sundry papers and documents relative to commerce, and the acts passed by the states in consequence of the recommendations of Congress of the 30th of April, 1784, report, —

“That, in examining the laws passed by the states, in consequence of the act of 30th April, 1784, they find that four states — namely, Massachusetts, New York, New Jersey, and Virginia — have enacted laws conformable to the recommendations contained in the act, but have restrained their operation until the other states shall have substantially complied.

“That three states — namely, Connecticut, Pennsylvania, and Maryland — have passed laws conforming to the same, but have determined the time from which they are to commence; the first, from the time of passing their act in May, 1785; and the two latter, from the 30th of April, 1784.

“That New Hampshire, by an act passed the 23d of June, 1785, has granted full powers to regulate their trade, by restrictions or duties, for fifteen years, with a proviso that the law shall be suspended until the other states have substantially done the same.

“That Rhode Island, by acts passed in February and October, 1785, has granted power, for the term of twenty-five years, to regulate trade between the respective states, and of prohibiting, restraining, or regulating, the importation only of all foreign goods in any ships or vessels other than those owned by citizens of the United States, and navigated by a certain proportion of citizens, and also with a proviso restrictive of its operation until the other states shall have substantially complied.

“That North Carolina, by an act passed the 2d June, 1784, has granted powers similar to those granted by Rhode Island, relative to foreign commerce, but unrestrained in duration, and clogged with a clause, that, when all the states shall have substantially complied therewith, it shall become an article of confederation and perpetual union.

“That they cannot find that the three other states — namely, Delaware, South Carolina, and Georgia — have passed any laws in consequence of the recommendations. The result is, that four states have fully complied; three others have also complied, but have determined the time of commencement, so that there will be a dissimilarity in the duration of the power granted; that three other states have passed laws in pursuance of the recommendations, but so inconsonant to them, both in letter and

spirit, that they cannot be deemed compliances; and that three other states have passed no acts whatever.

“That, although the powers to be vested by the recommendations, do not embrace every object which may be necessary in a well-formed system, yet, as many beneficial effects may be expected from them, the committee think it the duty of Congress again to call the attention of the states to this subject, the longer delay of which must be attended with very great evils; whereupon,

“*Resolved*, That the recommendations of the 30th April, 1784, be again presented to the view of the states of Delaware, South Carolina, and Georgia, and that they be most earnestly called upon to grant powers conformable thereto.

“*Resolved*, That the states of New Hampshire, Rhode Island, and North Carolina, be solicited to reconsider their acts, and to make them agreeable to the recommendations of the 30th April, 1784.

“*Resolved*, That the time for which the power under the recommendations of the 30th April, 1784, is to continue, ought to commence on the day that Congress shall begin to exercise it; and that it be recommended to the states of Pennsylvania, Connecticut, and Maryland, to amend their acts accordingly.”

FRIDAY, *September 29*, 1786. — The delegates for Georgia laid before Congress an act of that state, in pursuance of the recommendations of the 30th April, 1784, passed the 2d of August, 1786, vesting the United States in Congress assembled, for the term of fifteen years, commencing on the day Congress shall begin to exercise the powers, with a power to prohibit the importation or exportation of goods, wares, or merchandise, in ships belonging to, or navigated by, subjects of powers with whom the United States shall not have formed treaties of commerce, and to prohibit the subjects of foreign states, unless authorized by treaty, from importing goods, wares, or merchandise, which shall not be the produce or manufacture of the dominion of the sovereign whose subjects they are; provided, that nine states agree in the exercise of this power, and that it do not extend to prohibit the importation of negroes, and that the act shall not have force until the other twelve states have substantially complied with the recommendation above mentioned.

MONDAY, *October 23*, 1786. — The committee, consisting of Mr. Pinckney, Mr. Smith, and Mr. Henry, to whom was referred an act of the legislature of the state of Georgia, passed in consequence of the resolutions of the 30th of April, 1784, respecting commerce, and the subject of the said recommendation, having reported, —

“That it appears, by the said resolutions, the United States in Congress assembled recommended to the legislatures of the several states to vest them, for the term of fifteen years, with powers to prohibit any goods, wares, or merchandise, from being imported into, or exported from, any of the states, in vessels belonging to, or navigated by, the subjects of any power with whom these states shall not have formed treaties of commerce; that they also recommended to the legislatures of the said states to vest the United States in Congress assembled, for the term of fifteen years, with the power of prohibiting the subjects of any foreign state, kingdom, or empire, unless authorized by treaty, from importing into the United States any goods, wares, or merchandise, which are not the produce or manufacture of the dominions of the sovereign whose subjects they are, provided, that to all acts of the United States in Congress assembled, in pursu-

ance of the above powers, the assent of nine states shall be necessary. The committee have carefully examined the acts passed by the several states, in pursuance of the above recommendation, and find that the state of Delaware has passed an act in full compliance with the same; that the act of the states of Massachusetts, Rhode Island, New York, New Jersey, Virginia, and Georgia, are in conformity to the said recommendation, but restrained in their operation until the other states should have granted powers equally extensive; that the states of Connecticut, Pennsylvania, and Maryland, have passed laws agreeable to the said resolutions, but have fixed the time at which the powers thereby invested shall begin to operate, and not left the same to commence at the time at which Congress shall begin to exercise it, which your committee conceive to have been the intention of the same; that South Carolina, by an act passed the 11th March, 1786, has invested the United States in Congress assembled with the power of regulating the trade of the United States with the West Indies, and all other external or foreign trade of the said states, for the term of fifteen years from the passing of the said act; that New Hampshire, by their act of the 23d of June, 1785, invested the United States in Congress assembled with the full power of regulating trade for fifteen years, by restrictions or duties, with a proviso suspending its operation until all the other states shall have done the same; that North Carolina, by their act of the 2d of June, 1784, has authorized their delegates to agree to and ratify an article or articles by which Congress shall be empowered to prohibit the importation of all foreign goods, in any other than vessels owned by citizens of the United States, or navigated by such a proportion of seamen, citizens of the United States, as may be agreed to by Congress, which, when agreed to by all the states, shall be considered as a part of the Articles of Confederation and Perpetual Union.

“From the above review of the acts passed by the several states, in consequence of the said recommendation, it appears that though, in order to make the duration of the powers equal, it will be necessary for the states of Connecticut, Pennsylvania, Maryland, and South Carolina, so far to amend their acts as to permit the authorities therein granted to commence their operation at the time Congress shall begin to exercise them, yet still the powers granted by them, and by the states of Massachusetts, Rhode Island, New York, New Jersey, Delaware, Virginia, and Georgia, are otherwise in such compliance with the recommendation, that if the states of New Hampshire and North Carolina had conformed their acts to the said resolution, agreeably to the urgent recommendation of Congress of the 3d of March last, the powers therein requested might immediately begin to operate. The committee, however are of opinion that the acts of the states of New Hampshire and North Carolina manifest so liberal a disposition to grant the necessary powers upon this subject, that their not having complied with the recommendation of March last must be attributed to other reasons than a disinclination in them to adopt measures similar to those of their sister states. The committee, therefore, conceive it unnecessary to detail to them the situation of our commerce, languishing under the most ruinous restrictions in foreign ports, or the benefits which must arise from the due and equal use of powers competent to its protection and support, by that body which can alone beneficially, safely, and effectually, exercise the same — whereupon —

“*Resolved*, That it be again earnestly recommended to the legislatures of the states of New Hampshire and North Carolina, at their next session,

to reconsider their acts, and pass them in such conformity with the resolutions of the 20th April, 1784, as to enable, on their part, the United States in Congress assembled to exercise the powers thereby invested, as soon as possible.

*Resolved*, That, as the extent and duration of the powers to be exercised by the United States in Congress assembled, under the recommendation above mentioned, ought to be equal, it be recommended to the legislatures of Connecticut, Pennsylvania, Maryland, and South Carolina, so far to amend their acts as to vest the powers therein contained for the term of fifteen years, from the day on which Congress shall begin to exercise the same."

WEDNESDAY, July 13, 1785.—Congress took into consideration the report of a committee, consisting of Mr. Monroe, Mr. Spaight, Mr. Houstoun, Mr. Johnson, and Mr. King, on motion of Mr. Monroe, for vesting the United States in Congress assembled with the power of regulating trade; and the same being read,—

*Ordered*, That it be referred to a committee of the whole.

Congress was then resolved into a committee of the whole. Mr. Holten was elected to the chair.

The president resumed the chair, and Mr. Holten reported that the committee of the whole have had under consideration the subject referred to them, but, not having come to a conclusion, desire leave to sit again to-morrow.

*Resolved*, That leave be granted.

[The following is the report referred to. It was afterwards further considered; but Congress did not come to any final determination with respect to the constitutional alteration which it proposed. It was deemed most advisable, at the time, that any proposition for perfecting the Act of Confederation should originate with the state legislatures.]

"The committee, consisting of Mr. Monroe, Mr. Spaight, Mr. Houstoun, Mr. Johnson, and Mr. King, to whom was referred the motion of Mr. Monroe, submit the following report:—

"That the 1st paragraph of the 9th of the Articles of Confederation be altered, so as to read thus, viz.:—

"The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the 6th article—of sending and receiving ambassadors—entering into treaties and alliances—of regulating the trade of the states, as well with foreign nations as with each other, and of laying such imposts and duties, upon imports and exports, as may be necessary for the purpose; provided, that the citizens of the states shall in no instance be subjected to pay higher imposts and duties than those imposed on the subjects of foreign powers; provided, also, that the legislative power of the several states shall not be restrained from prohibiting the importation or exportation of any species of goods or commodities whatever; provided, also, that all such duties as may be imposed shall be collected under the authority and accrue to the use of the state in which the same shall be payable; and provided, lastly, that every act of Congress, for the above purpose, shall have the assent of nine states in Congress assembled—of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in time of peace—appointing



courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures; provided, that no member of Congress shall be appointed judge of any of the said courts.

“That the following letter be addressed to the legislatures of the several states, showing the principles on which the above alteration is proposed:—

“The United States having formed treaties of commerce with the most Christian king, the king of Sweden, and the States-General of the United Netherlands; and having appointed ministers with full authority to enter into treaties with other powers, upon such principles of reciprocity as may promote their peace, harmony, and respective interests; it becomes necessary that such internal arrangements should be made as may strictly comport with the faith of those treaties, and insure success to their future negotiations. But in the pursuit of the means necessary for the attainment of these ends, considerable difficulties arise. If the legislature of each state adopts its own measures, many and very eminent disadvantages must, in their opinion, necessarily result therefrom. They apprehend it will be difficult for thirteen different legislatures, acting separately and distinctly, to agree in the same interpretation of a treaty, to take the same measures for carrying it into effect, and to conduct their several operations upon such principles as to satisfy those powers, and at the same time to preserve the harmony and interests of the Union; or to concur in those measures which may be necessary to counteract the policy of those powers with whom they shall not be able to form commercial treaties, and who avoid it merely from an opinion of their imbecility and indecision. And if the several states levy different duties upon their particular produce, exported to the ports of those powers, or upon the produce and manufactures of those powers imported into each state, either in vessels navigated by and belonging to the citizens of these states, or the subjects of those powers, it will, they apprehend, induce, on their part, similar discriminations in the duties upon the commercial intercourse with each state, and thereby defeat the object of those treaties, and promote the designs of those who wish to profit from their embarrassment.

“Unless the United States in Congress assembled are authorized to make those arrangements which become necessary under their treaties, and are enabled to carry them into effect, they cannot complain of a violation of them on the part of other powers. And unless they act in concert, in the system of policy which may be necessary to frustrate the designs of those powers who lay injurious restraints on their trade, they must necessarily become the victims of their own indiscretion.

“The common principle upon which a friendly commercial intercourse is conducted between independent nations, is that of reciprocal advantages; and if this is not obtained, it becomes the duty of the losing party to make such further regulations, consistently with the faith of treaties, as will remedy the evil, and secure its interests. If, then, the commercial regulations of any foreign power contravene the interests of any particular state,—if they refuse admittance to its produce into its ports upon the same terms that the state admits its manufactures here—what course will it take to remedy the evil? If it makes similar regulations to counteract those of that power, by reciprocating the disadvantages which it feels, by impost or otherwise, will it produce the desired effect? What operation will it have upon the neighboring states? Will they enter into

similar regulations, and make it a common cause? On the contrary, will they not, in pursuit of the same local policy, avail themselves of this circumstance, to turn it to their particular advantage? Thus, then, we behold the several states taking separate measures in pursuit of their particular interests, in opposition to the regulations of foreign powers, and separately aiding those powers to defeat the regulations of each other; for, unless the states act together, there is no plan of policy, into which they can separately enter, which they will not be separately interested to defeat, and of course all their measures must prove vain and abortive

“ ‘ The policy of each nation, in its commercial intercourse with other powers, is to obtain, if possible, the principal share of the carriage of the materials of either party; and this can only be effected by laying higher duties upon imports and exports in foreign vessels, navigated by the subjects of foreign powers, than in those which belong to, and are navigated by, those of its own dominions. This principle prevails, in a greater or less degree, in the regulations of the oldest and wisest commercial nations, with respect to each other, and will, of course, be extended to these states. Unless, therefore, they possess a reciprocal power, its operation must produce the most mischievous effects. Unable to counteract the restrictions of those powers by similar restrictions here, or to support the interests of their citizens by discriminations in their favor, their system will prevail. Possessing no advantages in the ports of his own country, and subjected to much higher duties and restrictions in those of other powers, it will necessarily become the interest of the American merchant to ship his produce in foreign bottoms; of course, their prospects of national consequence must decline, their merchants become only the agents and retailers of those of foreign powers, their extensive forests be hewn down and laid waste, to add to their strength and national resources, and the American flag be rarely seen on the face of the seas.

“ ‘ But if they act as a nation, the prospect is more favorable to them. The particular interests of every state will then be brought forward, and receive a federal support. Happily for them, no measures can be taken to promote the interests of either which will not equally promote that of the whole. If their commerce is laid under injurious restrictions in foreign ports, by going hand in hand, in confidence, together, by wise and equitable regulations, they will the more easily sustain the inconvenience or remedy the evil. If they wish to cement the Union by the strongest ties of interest and affection; if they wish to promote its strength and grandeur, founded upon that of each individual state; every consideration of local, as well as of federal policy, urges them to adopt the following recommendations:—

“ ‘ The situation of the commercial affairs of the Union requires that the several legislatures should come to the earliest decision on the subject which they now submit to their consideration. They have weighed it with that profound attention which is due to so important an object, and are fully convinced of its expediency: a further delay must be productive of inconvenience. The interests which will vest in every part of the Union must soon take root and have their influence. The produce raised upon the banks of those great rivers and lakes, which have their sources high up in the interior parts of the continent, will empty itself into the Atlantic in different directions; and of course, as the states rearing to the westward attain maturity and get admission into the Confederation, their government will become more complicated. Whether this will be the

source of strength and wealth to the Union, must, therefore, in a great degree, depend upon the measures which may be now adopted.

“ ‘A temporary power would not, in their opinion, enable the United States to establish the interests, nor attain the salutary object, which they propose; the expectation that it will revert to the states, and remain with them for the future, would lessen its weight with foreign powers; and while the interests of each state, and of the federal government, continue to be the same, the same evils will always require the same correction, and of course the necessary powers should always be lodged in the same hands. They have, therefore, thought proper to propose an efficient and perpetual remedy.’ ”

[The subject was afterwards brought forward, in the House of Delegates of the commonwealth of Virginia, by Mr. Madison, whose proposed resolution, and the proceedings thereupon, are annexed.]

#### MR. MADISON'S RESOLUTION FOR EMPOWERING CONGRESS TO REGULATE TRADE.

*Virginia, to wit:* In the House of Delegates, Wednesday, the 30th of November, 1785. — Mr. Alexander White reported, according to order, a resolution agreed to by the committee of the whole house, on Monday last, respecting commerce; and he read the same in his place, and afterwards delivered it in at the clerk's table, where the same was again read, and is as followeth:—

“ Whereas the relative situation of the United States has been found, on trial, to require uniformity in their commercial regulations, as the only effectual policy for obtaining, in the ports of foreign nations, a stipulation of privileges reciprocal to those enjoyed by the subjects of such nations in the ports of the United States; for preventing animosities which cannot fail to arise among the several states from the interference of partial and separate regulations; and whereas such uniformity can be best concerted and carried into effect by the federal councils, which, having been instituted for the purpose of managing the interests of the states in cases which cannot so well be provided for by measures individually pursued, ought to be invested with authority in this case, as being within the reason and policy of their institution, —

“ *Resolved*, That it is the opinion of this committee, that the delegates representing this commonwealth in Congress be instructed to propose in Congress a recommendation to the states in union, to authorize that assembly to regulate their trade, on the following principles, and under the following qualifications:—

“ 1st. That the United States in Congress assembled be authorized to prohibit vessels belonging to any foreign nation from entering any of the ports thereof, or to impose any duties on such vessels and their cargoes which may be judged necessary; all such prohibitions and duties to be uniform throughout the United States, and the proceeds of the latter to be carried into the treasury of the state within which they shall accrue.

“ 2d. That no state be at liberty to impose duties on any goods, wares, or merchandise, imported, by land or by water, from any other state, but may altogether prohibit the importation from any state of any particular species or description of goods, wares, or merchandise, of which the importation is at the same time prohibited from all other places whatsoever.

“3d. That no act of Congress, that may be authorized as hereby proposed, shall be entered into by less than two thirds of the confederated states, nor be in force longer than thirteen years.”

A motion was made, and the question being put, to amend the resolution by adding to the end thereof the following words, to wit: “unless continued by a like proportion of votes within one year immediately preceding the expiration of the said period, or be revived in like manner after the expiration thereof,” it passed in the negative—ayes, 28; noes, 79.

On a motion made by Mr. Turberville, and seconded by Mr. Watkins,—  
*Ordered*, That the names of the ayes and noes, on the question to agree to the said amendment, be inserted in the journal.

And then the said resolution, being again read, was, on the question put thereon, agreed to by the house.

*Ordered*, That Mr. Alexander White do carry the resolution to the Senate, and desire their concurrence.

THURSDAY, December 1, 1785.—On a motion made to the following effect—that the resolution reported from a committee of the whole house, and agreed to by the house on yesterday, containing instructions to the delegates of this commonwealth in Congress, respecting commerce, does not, from a mistake, contain the sense of the majority of this house that voted for the said resolution.

*Ordered*, therefore, That the direction to send the said resolution to the Senate for their concurrence be rescinded, and that this house do immediately resolve itself into a committee of the whole house, to reconsider the said resolution.

It was resolved in the affirmative—ayes, 60; noes, 33.

The house then accordingly resolved itself into a committee of the whole house on the said resolution; and, after some time spent therein, Mr. Speaker resumed the chair, and Mr. Matthews reported that the said committee had, according to order, had the said resolution under their consideration, and had made several amendments thereto, which they had directed him to report when the house should think proper to receive the same.

*Ordered*, That the said report do lie on the table.

[With the same object in view, the General Assembly of Virginia eventually pursued a different course to attain it, as will be seen by the subjoined resolution.]

### PROPOSITION OF THE GENERAL ASSEMBLY OF VIRGINIA.

*Virginia, ss.* In the House of Delegates, January 21, 1786.

*Resolved*, That Edmund Randolph, James Madison, Jun., Walter Jones, St. George Tucker, Meriwether Smith, David Ross, William Ronald and George Mason, Esquires, be appointed commissioners, who, or any five of whom, shall meet such commissioners as may be appointed by the other states in the Union, at a time and place to be agreed on, to take into consideration the trade of the United States; to examine the relative situation and trade of the said states; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several states such an act relative to this great object as, when unanimously ratified by them, will enable the United States in Congress assembled effectually to provide for



the same that the said commissioners shall immediately transmit to the several states copies of the preceding resolution, with a circular letter requesting their concurrence therein, and proposing a time and place for the meeting aforesaid.

Test, JOHN BECKLEY, *C. H. D.*

1786, *January 21.*

Agreed to by the Senate.

H. BROOKE, *C. S.*

By his excellency, Patrick Henry, Esquire, governor of the commonwealth of Virginia, it is hereby certified that John Beckley, the person subscribing the above resolve, is clerk of the House of Delegates, and that due faith and credit is, and ought to be, paid to all things done by him by virtue of his office.

[L. s.] Given under my hand as governor, and under the seal of the commonwealth, at Richmond, the 6th day of July, 1786.

P. HENRY.

[Certain other of the states came readily into the measure proposed, and a meeting of commissioners took place at Annapolis, whose proceedings are stated in the following report.]

### PROCEEDINGS OF COMMISSIONERS TO REMEDY DEFECTS OF THE FEDERAL GOVERNMENT.

ANNAPOLIS, IN THE STATE OF MARYLAND, *September 11, 1786.*—At a meeting of commissioners from the states of New York, New Jersey, Pennsylvania, Delaware, and Virginia:

#### PRESENT,

##### *New York.*

Alexander Hamilton,  
Egbert Benson.

##### *New Jersey.*

Abraham Clark,  
William C. Houston,  
James Schureman.

##### *Pennsylvania.*

Tench Coxe.

##### *Delaware.*

George Read,  
John Dickinson,  
Richard Bassett.

##### *Virginia.*

Edmund Randolph,  
James Madison, Jun.,  
St. George Tucker.

Mr. Dickinson was unanimously elected chairman.

The commissioners produced their credentials from their respective states, which were read.

After a full communication of sentiments, and deliberate consideration of what would be proper to be done by the commissioners now assembled, it was unanimously agreed that a committee be appointed to prepare a draft of a report to be made to the states having commissioners attending at this meeting.

Adjourned till Wednesday morning.

WEDNESDAY, *September 13, 1786.*—Met agreeably to adjournment.

The committee appointed for that purpose reported the draft of the report, which being read, the meeting proceeded to the consideration thereof; and, after some time spent therein, adjourned till to-morrow morning.

THURSDAY, *September 14, 1786.*—Met agreeably to adjournment.

The meeting resumed the consideration of the draft of the report.

and, after some time spent therein, and amendments made, the same was unanimously agreed to, and is as follows, to wit : —

“ To the Honorable the Legislatures of Virginia, Delaware, Pennsylvania, New Jersey, and New York, the commissioners from the said states respectively, assembled at Annapolis, humbly beg leave to report, —

“ That, pursuant to their several appointments, they met at Annapolis in the state of Maryland, on the 11th day of September instant; and having proceeded to a communication of their powers, they found that the states of New York, Pennsylvania, and Virginia, had, in substance, and nearly in the same terms, authorized their respective commissioners ‘ to meet such commissioners as were or might be appointed by the other states in the Union, at such time and place as should be agreed upon by the said commissioners, to take into consideration the trade and commerce of the United States; to consider how far a uniform system in their commercial intercourse and regulations might be necessary to their common interest and permanent harmony; and to report to the several states such an act relative to this great object as, when unanimously ratified by them, would enable the United States in Congress assembled effectually to provide for the same.’

“ That the state of Delaware had given similar powers to their commissioners, with this difference only, that the act to be framed in virtue of these powers is required to be reported ‘ to the United States in Congress assembled, to be agreed to by them, and confirmed by the legislatures of every state.’

“ That the state of New Jersey had enlarged the object of their appointment, empowering their commissioners ‘ to consider how far a uniform system in their commercial regulations and *other important matters* might be necessary to the common interest and permanent harmony of the several states;’ and to report such an act on the subject as, when ratified by them, ‘ would enable the United States in Congress assembled effectually to provide for the exigencies of the Union.’

“ That appointments of commissioners have also been made by the states of New Hampshire, Massachusetts, Rhode Island, and North Carolina, none of whom, however, have attended; but that no information has been received, by your commissioners, of any appointment having been made by the states of Connecticut, Maryland, South Carolina, or Georgia.

“ That the express terms of the powers to your commissioners supposing a deputation from all the states, and having for object the trade and commerce of the United States, your commissioners did not conceive it advisable to proceed on the business of their mission under the circumstance of so partial and defective a representation.

“ Deeply impressed, however, with the magnitude and importance of the object confided to them on this occasion, your commissioners cannot forbear to indulge an expression of their earnest and unanimous wish, that speedy measures may be taken to effect a general meeting of the states, in a future convention, for the same and such other purposes as the situation of public affairs may be found to require.

“ If, in expressing this wish, or in intimating any other sentiment, your commissioners should seem to exceed the strict bounds of their appointment, they entertain a full confidence that a conduct dictated by an anxiety for the welfare of the United States will not fail to receive an indulgent construction.

“ In this persuasion your commissioners submit an opinion, that the

idea of extending the powers of their deputies to other objects than those of commerce, which has been adopted by the state of New Jersey, was an improvement on the original plan, and will deserve to be incorporated into that of a future convention. They are the more naturally led to this conclusion, as, in the course of their reflections on the subject, they have been induced to think that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the federal government, that, to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the federal system.

“That there are important defects in the system of the federal government, is acknowledged by the acts of all those states which have concurred in the present meeting; that the defects, upon a closer examination, may be found greater and more numerous than even these acts imply, is at least so far probable, from the embarrassments which characterize the present state of our national affairs, foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion, in some mode which will unite the sentiments and councils of all the states. In the choice of the mode, your commissioners are of opinion that a convention of deputies from the different states, for the special and sole purpose of entering into this investigation, and digesting a plan for supplying such defects as may be discovered to exist, will be entitled to a preference, from considerations which will occur without being particularized.

“Your commissioners decline an enumeration of those national circumstances on which their opinion respecting the propriety of a future convention, with more enlarged powers, is founded; as it would be a useless intrusion of facts and observations, most of which have been frequently the subject of public discussion, and none of which can have escaped the penetration of those to whom they would in this instance be addressed. They are, however, of a nature so serious, as, in the view of your commissioners, to render the situation of the United States delicate and critical, calling for an exertion of the united virtue and wisdom of all the members of the confederacy.

“Under this impression, your commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction, that it may essentially tend to advance the interests of the Union, if the states, by whom they have been respectively delegated, would themselves concur, and use their endeavors to procure the concurrence of the other states, in the appointment of commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them, and afterwards confirmed by the legislatures of every state, will effectually provide for the same.

“Though your commissioners could not with propriety address these observations and sentiments to any but the states they have the honor to represent, they have nevertheless concluded, from motives of respect, to transmit copies of this report to the United States in Congress assembled, and to the executive of the other states.

“By order of the Commissioners.

“Dated at ANNAPOLIS, September 14, 1786.”

*Resolved*, That the chairman sign the foregoing report in behalf of the commissioners. Then adjourned without day.

*New York.*

Egbert Benson,  
Alexander Hamilton.

*New Jersey.*

Abra. Clark,  
Wm. Ch. Houston,  
James Schureman.

*Pennsylvania.*

Tench Coxe.

*Delaware.*

George Read,  
John Dickinson,  
Richard Bassett.

*Virginia.*

Edmund Randolph,  
James Madison, Jun.,  
St. George Tucker

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 REPORT OF PROCEEDINGS.

IN CONGRESS, WEDNESDAY, *February 21, 1787.* — The report of a grand committee, consisting of Mr. Dane, Mr. Varnum, Mr. S. M. Mitchell, Mr. Smith, Mr. Cadwallader, Mr. Irvine, Mr. N. Mitchell, Mr Forrest, Mr. Grayson, Mr. Blount, Mr. Bull, and Mr. Few, to whom was referred a letter of 14th September, 1786, from J. Dickinson, written at the request of commissioners from the states of Virginia, Delaware, Pennsylvania, New Jersey, and New York, assembled at the city of Annapolis, together with a copy of the report of the said commissioners to the legislatures of the states by whom they were appointed, being an order of the day, was called up, and which is contained in the following resolution, viz. : —

“Congress having had under consideration the letter of John Dickinson, Esq., chairman of the commissioners who assembled at Annapolis during the last year; also the proceedings of the said commissioners; and entirely coinciding with them as to the inefficiency of the federal government, and the necessity of devising such further provisions as shall render the same adequate to the exigencies of the Union, do strongly recommend to the different legislatures to send forward delegates, to meet the proposed convention, on the second Monday in May next, at the city of Philadelphia.”

The delegates for the state of New York thereupon laid before Congress instructions which they had received from their constituents, and, in pursuance of the said instructions, moved to postpone the further consideration of the report in order to take up the following proposition, viz. : —

“That it be recommended to the states composing the Union, that a convention of representatives, from the said states respectively, be held at —, on —, for the purpose of revising the Articles of Confederation and Perpetual Union between the United States of America, and reporting to the United States in Congress assembled, and to the states respectively, such alterations and amendments of the said Articles of Confederation as the representatives met in such convention shall judge proper and necessary to render them adequate to the preservation and support of the Union.”

On the question to postpone, for the purpose above mentioned, the yeas and nays being required by the delegates for New York :

<i>Massachusetts</i> , . . . . .	Mr. King, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Dane, . . . . .	<i>Ay.</i>	
<i>Connecticut</i> , . . . . .	Mr. Johnson, . . . . .	<i>Ay.</i>	} <i>Divided.</i>
	Mr. S. Mitchell, . . . . .	<i>No.</i>	



<i>New York</i> , . . . . .	Mr. Smith, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Benson, . . . . .	<i>Ay.</i>	
<i>New Jersey</i> , . . . . .	Mr. Cadwallader, . . . . .	<i>Ay.</i>	} <i>No.</i>
	Mr. Clark, . . . . .	<i>No.</i>	
	Mr. Schureman, . . . . .	<i>No.</i>	
<i>Pennsylvania</i> , . . . . .	Mr. Irvine, . . . . .	<i>No.</i>	} <i>No.</i>
	Mr. Meredith, . . . . .	<i>Ay.</i>	
	Mr. Bingham, . . . . .	<i>No.</i>	
<i>Delaware</i> , . . . . .	Mr. N. Mitchell, . . . . .	<i>No.</i>	
<i>Maryland</i> , . . . . .	Mr. Forrest, . . . . .	<i>No.</i>	
<i>Virginia</i> , . . . . .	Mr. Grayson, . . . . .	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Madison, . . . . .	<i>Ay.</i>	
<i>North Carolina</i> , . . . . .	Mr. Blount, . . . . .	<i>No.</i>	} <i>No.</i>
	Mr. Hawkins, . . . . .	<i>No.</i>	
<i>South Carolina</i> , . . . . .	Mr. Bull, . . . . .	<i>No.</i>	} <i>No.</i>
	Mr. Kean, . . . . .	<i>No.</i>	
	Mr. Huger, . . . . .	<i>No.</i>	
	Mr. Parker, . . . . .	<i>No.</i>	
<i>Georgia</i> , . . . . .	Mr. Few, . . . . .	<i>Ay.</i>	} <i>Divided.</i>
	Mr. Pierce, . . . . .	<i>No.</i>	

So the question was lost.

A motion was then made, by the delegates for Massachusetts, to postpone the further consideration of the report, in order to take into consideration a motion which they read in their place. This being agreed to, the motion of the delegates for Massachusetts was taken up, and, being amended, was agreed to, as follows:—

“Whereas there is provision, in the Articles of Confederation and Perpetual Union, for making alterations therein, by the assent of a Congress of the United States, and of the legislatures of the several states; and whereas experience hath evinced that there are defects in the present Confederation; as a mean to remedy which, several of the states, and particularly the state of New York, by express instructions to their delegates in Congress, have suggested a convention for the purposes expressed in the following resolution; and such convention appearing to be the most probable mean of establishing in these states a firm national government,—

“*Resolved*, That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the states, render the federal Constitution adequate to the exigencies of government and the preservation of the Union.”

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## FEDERAL CONVENTION.

The day appointed by this resolution for the meeting of the Convention was the 2d Monday in May, [1787;] but the 25th of that month was the first day upon which a sufficient number of members appeared to constitute a representation of a majority of the states. They then elected

George Washington their president, and proceeded to business, at the city of Philadelphia.

On the 29th of May, Mr. Edmund Randolph presented to the Convention fifteen resolutions, and Mr. C. Pinckney laid before them the draft of a federal government, which were referred to a committee of the whole; which debated the resolutions, from day to day, until the 13th of June, when the committee of the whole reported to the Convention a series of nineteen resolutions, founded upon those which had been proposed by Mr. Randolph.

On the 15th of June, Mr. Patterson submitted to the Convention his resolutions, which were referred to a committee of the whole, to whom were also recommitted the resolutions reported by them on the 13th.

On the 19th of June, the committee of the whole reported that they did not agree to Mr. Patterson's propositions, but reported again the resolutions which had been reported before.

The Convention never afterwards went into committee of the whole; but, from the 19th of June till the 23d of July, were employed in debating the nineteen resolutions reported by the committee of the whole on the 13th of June, some of which were occasionally referred to *grand* committees of one member from each state, or to select committees of five members.

After passing upon the nineteen resolutions, it was, on the 23d of July, resolved, "That the proceedings of the Convention for the establishment of a national government, except what respects the supreme executive, be referred to a committee for the purpose of reporting a constitution conformably to the proceedings aforesaid."

This committee, consisting of five members, and called in the journal "the committee of detail," was appointed on the 24th of July; and, with the proceedings of the Convention, the propositions submitted to the Convention, by Mr. Charles Pinckney, on the 29th of May, and by Mr. Patterson, on the 15th of June, were referred to them.

On the 26th of July, a resolution respecting the executive, and two others, offered for the consideration of the Convention, were referred to the committee of detail; and the Convention adjourned till Monday, the 6th of August, when the committee reported a Constitution for the estab-

lishment of a national government. This draft formed the general text of debate from that time till the 8th of September; many additional resolutions being, in the course of the deliberations, proposed, and referred to and reported upon by the same committee of detail, or other committees of eleven, (a member from each state,) or of five.

On the 8th of September, a committee of five was appointed "to revise the style of and arrange the articles agreed to by the house."

On the 12th of September, this committee reported the Constitution, as revised and arranged, and the draft of a letter to Congress. It was ordered that printed copies of the reported Constitution should be furnished to the members, and they were brought in the next day.

On the 17th day of September, 1787, the Convention dissolved itself, by an adjournment without day, after transmitting the plan of the Constitution, which they had prepared, to Congress, to be laid before conventions, delegated by the people of the several states, for their assent and ratification.

*The last act* of the Convention was a resolution that their journal and other papers should be deposited with their president, to be retained by him, subject to the order of the Congress, if ever formed under the Constitution.

On the 19th of March, 1796, President Washington deposited in the department of state three manuscript volumes; one containing, in 153 pages, the Journal of the Federal Convention of 1787; one the Journal of the Proceedings of the same Convention, while in committee of the whole, in 28 pages; and one, three pages of lists of yeas and nays, on various questions debated in the Convention; and after an interval of eight blank pages, five other pages of like yeas and nays. There were also two loose sheets, and one half sheet of similar yeas and nays; a printed draft of the Constitution, as reported on the 6th of August, 1787, with erasures and written interlineations of amendments afterwards adopted; two sheets containing copies of the series of resolutions offered to the Convention by Mr. Edmund Randolph, in different stages of amendment, as reported by the committee of the whole; and seven other papers, of no importance, in relation to the proceedings of the Convention.

The volume containing the Journal of the Convention was in an incomplete state. The journal of Friday, September 14, and a commencement of that of Saturday, September 15, filled three-fourths of the 153d page; then terminated abruptly, and were, with the exception of five lines crossed out with a pen. President Madison, to whom application for that purpose was made, has furnished, from his own minutes, the means of completing the Journal, as now published.

The yeas and nays were not inserted in the journals, but were entered partly in a separate volume, and partly on loose sheets of paper. They were taken, not individually, but by states. Instead of publishing them as they appear in the manuscript, they are now given immediately after each question upon which they were taken.

General Joseph Bloomfield, executor of David Brearly, one of the members of the Convention, transmitted to the department of state several additional papers, which are included in this publication.

The paper purporting to be Colonel Hamilton's Plan of a Constitution is not noticed in the journals. It was not offered by him for discussion, but was read by him, as part of a speech, observing that he did not mean it as a proposition, but only to give a more correct view of his ideas.

The return of the members in the several states appears to have been an estimate used for the purpose of apportioning the number of members to be admitted from each of the states to the House of Representatives.

In order to follow, with clear understanding, the course of proceedings of the Convention, particular attention is required to the following papers, which, except the third, successively formed the general text of their debates:—

1. May 29, 1787. *The Fifteen Resolutions* offered by Mr. Edmund Randolph to the Convention, and by them referred to a committee of the whole.

2. June 13. *Nineteen Resolutions* reported by this committee of the whole, on the 13th, and again on the 19th of June, to the Convention.

3. July 26. *Twenty-three Resolutions*, adopted and elaborated by the Convention, in debate upon the above nineteen, reported from the committee of the whole; and on the 23d and 26th of July, referred, together with the plan of Mr. C. Pinckney, and the propositions of Mr. Patterson to a committee of five, to report a draft of a Constitution.

4. August 6. *The Draft of a Plan of a Constitution*, reported by this committee to the Convention; and debated from that time till the 12th of September.



5 September 13. *Plan of a Constitution*, brought in by a committee of revision, appointed on the 8th of September, consisting of five members, to revise the style and arrange the articles agreed to by the Convention.

The second and fourth of these papers are among those deposited, by President Washington, at the department of state.

The first, fourth, and fifth, are among those transmitted by General Bloomfield.

The third is collected from the proceedings of the Convention, as they are spread over the Journal from June 19th to July 26th.

This paper, together with the plan of Mr. C. Pinckney, a copy of which has been furnished by him, and the propositions of Mr. Patterson, included among the papers forwarded by General Bloomfield, comprise the materials upon which the first draft was made of the Constitution, as reported by the committee of detail, on the 6th of August.



LIST OF THE MEMBERS OF THE FEDERAL CONVENTION, WHICH FORMED THE CONSTITUTION OF THE UNITED STATES.

<i>From</i>		<i>Attended</i>
NEW HAMPSHIRE. . . . .	1. John Langdon, . . . . . <i>John Pickering,</i>	July 23, 1787
	2. Nicholas Gilman. . . . . <i>Benjamin West.</i>	July 23.
MASSACHUSETTS. . . . .	<i>Francis Dana,</i> Elbridge Gerry, . . . . .	May 29.
	3. Nathaniel Gorham, . . . . .	May 28.
	4. Rufus King, . . . . . Caleb Strong. . . . .	May 25. May 28.
RHODE ISLAND. . . . .	[No appointment.]	
CONNECTICUT. . . . . †	5. Wm. Sam. Johnson, . . . . .	June 2.
	6. Roger Sherman, . . . . . Oliver Ellsworth. . . . .	May 30. May 29.
NEW YORK. . . . .	Robert Yates, . . . . . 7. Alexander Hamilton, . . . . .	May 25 do.
	John Lansing. . . . .	June 2.
NEW JERSEY. . . . . †	8. William Livingston, . . . . .	June 5.
	9. David Brearly, . . . . . William C. Houston, . . . . .	May 25. do.
	10. William Patterson, . . . . . <i>John Nelson,</i> <i>Abraham Clark,</i>	do. do.
	11. Jonathan Dayton. . . . .	June 21.

<i>From</i>	<i>Attended</i>
PENNSYLVANIA. . . . .	12. Benjamin Franklin, . . . . . May 28, 1787
	13. Thomas Mifflin, . . . . . do.
	14. Robert Morris, . . . . . May 25
	15. George Clymer, . . . . . May 28
	16. Thomas Fitzsimons, . . . . . May 25
	+ 17. Jared Ingersoll, . . . . . May 28
	18. James Wilson, . . . . . May 25.
	19. Gouverneur Morris. . . . . do.
DELAWARE. . . . .	20. George Read, . . . . . do.
	21. Gunning Bedford, Jun. . . . . May 28.
	22. John Dickinson, . . . . . do.
	23. Richard Basset, . . . . . May 25.
	24. Jacob Broom. . . . . do.
MARYLAND. . . . .	25. James M'Henry, . . . . . May 29.
	26. Daniel of St. Thomas Jenifer, . . June 2.
	27. Daniel Carroll, . . . . . July 9.
	John Francis Mercer, . . . . . August 6.
	Luther Martin. . . . . June 9.
VIRGINIA. . . . .	28. George Washington, . . . . . May 25.
	<i>Patrick Henry</i> , . . . . . (declined.)
	Edinund Randolph, . . . . . May 25
	29. John Blair, . . . . . do.
	30. James Madison, Jun. . . . . do.
	George Mason, . . . . . do.
	George Wythe, . . . . . do.
	J. M'Clurg, [room of P. Henry.] . do.
NORTH CAROLINA.	<i>Richard Caswell</i> , . . . . . (resigned)
	Alexander Martin, . . . . . May 25.
	William R. Davie, . . . . . do.
	31. Wm. Blount, [room of R. Caswell,] June 20.
	<i>Willie Jones</i> , . . . . . (declined.)
	32. Richard D. Spaight, . . . . . May 25.
	33. H. Williamson, [room of W. Jones.] May 25.
SOUTH CAROLINA.	34. John Rutledge, . . . . . May 25.
	35. Charles C. Pinckney, . . . . . do.
	36. Charles Pinckney, . . . . . do.
	37. Pierce Butler. . . . . do.
GEORGIA. . . . .	38. William Few, . . . . . do.
	+ 39. Abraham Baldwin, . . . . . June 11
	William Pierce, . . . . . May 31
	<i>George Walton</i> ,
	William Houstoun, . . . . . June 7
	<i>Nathaniel Pendleton.</i>

Those with numbers before their names signed the Constitution, . . . . . 39

Those in *Italics* never attended, . . . . . 10

Members who attended, but did not sign the Constitution, . . . . . 16

## CREDENTIALS OF MEMBERS OF THE FEDERAL CONVENTION.

### STATE OF NEW HAMPSHIRE.

IN THE YEAR OF OUR LORD 1787.

*An Act for appointing Deputies from this State to the Convention proposed to be holden in the City of Philadelphia, in May, 1787, for the Purpose of revising the federal Constitution*

WHEREAS, in the formation of the federal compact, which frames the bond of union of the American states, it was not possible, in the infant state of our republic, to devise a system which, in the course of time and experience, would not manifest imperfections that it would be necessary to reform :

And whereas the limited powers, which, by the Articles of Confederation, are vested in the Congress of the United States, have been found far inadequate to the enlarged purposes which they were intended to produce ; and whereas Congress hath, by repeated and most urgent representations, endeavored to awaken this, and other states of the Union, to a sense of the truly critical and alarming situation in which they may inevitably be involved, unless timely measures be taken to enlarge the powers of Congress, that they may be thereby enabled to avert the dangers which threaten our existence as a free and independent people ; and whereas this state hath been ever desirous to act upon the liberal system of the general good of the United States, without circumscribing its views to the narrow and selfish objects of partial convenience ; and has been at all times ready to make every concession, to the safety and happiness of the whole, which justice and sound policy could vindicate ; —

*Be it therefore enacted, by the Senate and House of Representatives in General Court convened,* That John Langdon, John Pickering, Nicholas Gilman, and Benjamin West, Esqrs., be, and hereby are, appointed commissioners : they, or any two of them, are hereby authorized and empowered, as deputies from this state, to meet at Philadelphia said Convention, or any other place to which the Convention may be adjourned, for the purposes aforesaid, there to confer with such deputies as are, or may be, appointed by the other states for similar purposes, and with them to discuss and decide upon the most effectual means to remedy the defects of our federal Union, and to procure and secure the enlarged purposes which it was intended to effect, and to report such an act to the United States in Congress, as, when agreed to by them, and duly confirmed by the several states, will effectually provide for the same.

STATE OF NEW HAMPSHIRE. — IN THE HOUSE OF REPRESENTATIVES, June 27, 1787. The foregoing bill having been read a third time, — voted that it pass to be enacted. Sent up for concurrence. JOHN SPARHAWK, *Speaker*.

IN SENATE, the same day. This bill having been read a third time, — voted that the same be enacted. JOHN SULLIVAN, *President*.

Copy examined, per JOSEPH PEARSON, *Secretary*.

[L. s.]

### COMMONWEALTH OF MASSACHUSETTS.

By his excellency, James Bowdoin, Esq., Governor of the Commonwealth of  
[L. s.] Massachusetts.

*To the Hon. Francis Dana, Ebridge Gerry, Nothaniel Gorham, Rufus King, and Caleb Strong, Esqrs, Greeting :*

Whereas Congress did, on the 21st day of February, A. D. 1787, resolve, " That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the states, render the federal constitution adequate to the exigencies of government and the preservation of the Union ; " And whereas the General Court have constituted and appointed you their delegates, to attend and represent this commonwealth in the said proposed Convention, and have, by a resolution of theirs of the 10th of March last, requested me to commission you for that purpose ; —

*Now, therefore, Know ye, That, in pursuance of the resolutions aforesaid, I do, by these presents, commission you, the said Francis Dana, Elbridge Gerry, Nathaniel Gorham, Rufus King, and Caleb Strong, Esqrs., or any three of you, to meet such delegates as may be appointed by the other, or any of the other, states in the Union, to meet in Convention at Philadelphia, at the time and for the purposes aforesaid.*

*In testimony whereof, I have caused the public seal of the commonwealth aforesaid to be hereunto affixed.*

Given at the Council Chamber, in Boston, the ninth day of April, A. D. 1787, and in the 11th year of the independence of the United States of America.

JAMES BOWDOIN.

By his excellency's command. — JOHN AVERY, Jun., *Secretary.*

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#### STATE OF CONNECTICUT.

At a General Assembly of the State of Connecticut, in America, holden at Hartford, on the second Thursday of May, A. D. 1787.

*An Act for appointing Delegates to meet in Convention of the States, to be held at Philadelphia, on the second Monday of May instant.*

Whereas the Congress of the United States, by their act of the 21st February, 1787, have recommended that, on the second Monday of May inst., a Convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, —

*Be it enacted by the governor, council, and representatives, in General Court assembled, and by the authority of the same, That the Hon. William Samuel Johnson, Roger Sherman, and Oliver Ellsworth, Esqrs., be, and they hereby are, appointed delegates to attend the said Convention, and are requested to proceed to the city of Philadelphia, for that purpose, without delay; and the said delegates, and, in case of sickness or accident, such one or more of them as shall attend the said Convention, is and are hereby authorized and empowered to represent this state therein, and to confer with such delegates appointed by the several states, for the purposes mentioned in the said act of Congress, that may be present and duly empowered to sit in said Convention, and to discuss upon such alterations and provisions, agreeably to the general principles of republican government, as they shall think proper to render the Federal Constitution adequate to the exigencies of government and the preservation of the Union; and they are further directed, pursuant to the said act of Congress, to report such alterations and provisions as may be agreed to by a majority of the United States represented in Convention, to the Congress of the United States, and to the General Assembly of this state.*

A true copy of record. Examined by GEORGE WILLYS, *Secretary.*

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#### STATE OF NEW YORK.

By his excellency, George Clinton, governor of the state of New York, general and [L. s.] commander-in-chief of all the militia, and admiral of the navy of the same.

*To all to whom these presents shall come.*

It is by these presents certified, that John M'Kesson, who has subscribed the annexed copies of resolutions, is clerk of the Assembly of this state.

In testimony whereof, I have caused the privy seal of the said state to be hereunto affixed, this 9th day of May, in the 11th year of the independence of the said state.

GEO. CLINTON.

STATE OF NEW YORK.—IN ASSEMBLY, February 23, 1787.—A copy of a resolution of the honorable the Senate, delivered by Mr. Williams, was read, and is in the words following, viz. :—

*Resolved, If the honorable the Assembly concur therein, that three delegates be appointed, on the part of this state, to meet such delegates as may be appointed on the part of the other states, respectively, on the second Monday in May next, at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress, and to the several legislatures, such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the several states, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union; and that in case of such concurrence, the two houses of the*



legislature will, on Tuesday next, proceed to nominate and appoint the said delegates, in like manner as is directed by the Constitution of this state for nominating and appointing delegates to Congress.

*Resolved*, That this house do concur with the honorable the Senate in the said resolution.

IN ASSEMBLY, *March 6, 1787.*—*Resolved*, That the Hon. Robert Yates, Esq., Alexander Hamilton, and John Lansing, Jun., Esqrs., be, and they are hereby, nominated by this house delegates on the part of this state, to meet such delegates as may be appointed on the part of the other states, respectively, on the second Monday in May next, at Philadelphia, pursuant to concurrent resolutions of both houses of the legislature, on the 28th ultimo.

*Ordered*, That Mr. N. Smith deliver a copy of the last preceding resolution to the honorable the Senate.

A copy of a resolution of the honorable the Senate was delivered by Mr. Vanderbilt, that the Senate will immediately meet this house in the Assembly Chamber, to compare the list of persons nominated by the Senate and Assembly, respectively, as delegates, pursuant to the resolutions before mentioned.

The honorable the Senate accordingly attended in the Assembly Chamber, to compare the lists of persons nominated for delegates, as above mentioned.

The list of persons nominated by the honorable the Senate were the Hon. Robert Yates, John Lansing, Jun., and Alexander Hamilton, Esqrs.; and, on comparing the lists of the persons nominated by the Senate and Assembly respectively, it appeared that the same persons were nominated in both lists; thereupon, *Resolved*, that the Hon. Robert Yates, John Lansing, Jun., and Alexander Hamilton, Esqrs., be, and they are hereby, declared duly nominated and appointed delegates, on the part of this state, to meet such delegates as may be appointed on the part of the other states, respectively, on the second Monday in May next, at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress, and to the several legislatures, such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the several states, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union.

True extracts from the journals of the Assembly. JOHN M'KESSON, *Clerk*.

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#### STATE OF NEW JERSEY.

*To the Hon. David Brearly, William Churchill Houston, William Patterson, and John Neilson, Esqrs., Greeting.*

The Council and Assembly, reposing especial trust and confidence in your integrity, prudence, and ability, have, at a joint meeting, appointed you, the said David Brearly, William Churchill Houston, William Patterson, and John Neilson, Esqrs., or any three of you, commissioners, to meet such commissioners as have been, or may be, appointed by the other states in the Union, at the city of Philadelphia, in the commonwealth of Pennsylvania, on the second Monday in May next, for the purpose of taking into consideration the state of the Union as to trade and other important objects, and of devising such other provisions as shall appear to be necessary to render the Constitution of the federal government adequate to the exigencies thereof.

In testimony whereof, the great seal of the state is hereunto affixed. Witness, William Livingston, Esq., governor, captain-general, and commander-in-chief in and over the state of New Jersey, and territories thereunto belonging, chancellor and ordinary in the same, at Trenton, the 23d day of November, in the year of our Lord 1786, and of our sovereignty and independence the eleventh.

WILLIAM LIVINGSTON

By his excellency's command.—BOWES REED, *Secretary*.

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#### STATE OF NEW JERSEY.

*To his excellency, William Livingston, and the Hon. Abraham Clark, Esqrs.,*  
[L. s.] *Greeting.*

The Council and Assembly, reposing especial trust and confidence in your integrity, prudence, and ability, have, at a joint meeting, appointed you, the said William Livingston and Abraham Clark, Esqrs., in conjunction with the Hon. David Brearly, William Churchill Houston, and William Patterson, Esqrs., or any three of you,

commissioners, to meet such commissioners as have been appointed by the other states in the Union, at the city of Philadelphia, in the commonwealth of Pennsylvania, on the second Monday in this present month, for the purpose of taking into consideration the state of the Union, as to trade and other important objects, and of devising such other provisions as shall appear to be necessary to render the constitution of the federal government adequate to the exigencies thereof.

In testimony whereof, the great seal of the state is hereunto affixed. Witness, William Livingston, Esq., governor, captain-general, and commander-in-chief, in and over the state of New Jersey, and territories thereunto belonging, chancellor and ordinary in the same, at Burlington, the 12th day of May, in the year of our Lord 1787, and of our sovereignty and independence the eleventh.

WIL. LIVINGSTON.

By his excellency's command. — BOWES REED, *Secretary*.

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### STATE OF NEW JERSEY.

*To the Hon. J. Dayton, Esq.*

The Council and Assembly, reposing especial trust and confidence in your integrity, prudence, and ability, have, at a joint meeting, appointed you, the said Jonathan Dayton, Esq., in conjunction with his excellency, William Livingston, the Hon. David Brearley, William Churchill Houston, William Patterson, and Abraham Clark, Esqrs., or any three of you, commissioners, to meet such commissioners as have been appointed by the other states in the Union, at the city of Philadelphia, in the commonwealth of Pennsylvania, for the purpose of taking into consideration the state of the Union as to trade and other important objects, and of devising such other provisions as shall appear to be necessary to render the constitution of the federal government adequate to the exigencies thereof.

In testimony whereof, the great seal of the state is hereunto affixed. Witness, Robert Lettice Hooper, Esq., vice-president, captain-general, and commander-in-chief in and over the state of New Jersey, and territories thereunto belonging, chancellor and ordinary in the same, at Burlington, the fifth day of June, in the year of our Lord 1787, and of our sovereignty and independence the eleventh.

ROBERT L. HOOPER.

By his honor's command. — BOWES REED, *Secretary*.

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### COMMONWEALTH OF PENNSYLVANIA.

*An Act appointing Deputies to the Convention intended to be held in the City of Philadelphia, for the Purpose of revising the Federal Constitution.*

SEC. 1. Whereas the General Assembly of this commonwealth, taking into their serious consideration the representations heretofore made to the legislatures of the several states in the Union, by the United States in Congress assembled, and also weighing the difficulties under which the confederated states now labor, are fully convinced of the necessity of revising the Federal Constitution, for the purpose of making such alterations and amendments as the exigencies of our public affairs require: And whereas the legislature of the state of Virginia have already passed an act of that commonwealth, empowering certain commissioners to meet at the city of Philadelphia, in May next, a convention of commissioners or deputies from the different states; and the legislature of this state are fully sensible of the important advantages which may be derived to the United States, and every of them, from cooperating with the commonwealth of Virginia and the other states to the Confederation, in the said design.

SEC. 2. *Be it enacted, and it is hereby enacted, by the representatives of the freemen of the commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same,* That Thomas Mifflin, Robert Morris, George Clymer, Jared Ingersoll, Thomas Fitzsimons, James Wilson, and Gouverneur Morris, Esqrs., are hereby appointed deputies from this state, to meet in the Convention of the deputies of the respective states of North America, to be held at the city of Philadelphia, on the 2d day in the month of May next: and the said Thomas Mifflin, Robert Morris, George Clymer, Jared Ingersoll, Thomas Fitzsimons, James Wilson, and Gouverneur Morris, Esqrs., or any four of them, are hereby constituted and appointed deputies from this state, with powers to meet such deputies as may be appointed and authorized by the other states, to assemble in the said Convention, at the city aforesaid, and join with

them in devising, deliberating on, and discussing, all such alterations and further provisions as may be necessary to render the Federal Constitution fully adequate to the exigencies of the Union, and in reporting such act or acts, for that purpose, to the United States in Congress assembled, as, when agreed to by them, and duly confirmed by the several states, will effectually provide for the same.

SEC. 3. *And be it further enacted by the authority aforesaid,* That, in case any of the said deputies hereby nominated shall happen to die, or to resign his or their said appointment or appointments, the supreme executive council shall be, and hereby are, empowered and required to nominate and appoint other person or persons, in lieu of him or them so deceased, or who has or have so resigned, which person or persons, from and after such nomination and appointment, shall be, and hereby are, declared to be vested with the same powers respectively as any of the deputies nominated and appointed by this act is vested with by the same: Provided always, that the council are not hereby authorized, nor shall they make any such nomination or appointment, except in vacation and during the recess of the General Assembly of this state.

Signed by order of the house,

THOMAS MIFFLIN, *Speaker.*

Enacted into a law at Philadelphia, on Saturday, December 30, in the year of our Lord 1786.

PETER ZACHARY LLOYD,

*Clerk of the General Assembly.*

I, Matthew Irwine, Esq., master of the rolls for the state of Pennsylvania, do certify the preceding writing to be a true copy (or exemplification) of a certain act of Assembly lodged in my office.

In witness whereof, I have hereunto set my hand and seal of office, the 15th May, [L. s.] A. D. 1787. MATTHEW IRWINE, *M. R.*

*A Supplement to the Act entitled "An Act appointing Deputies to the Convention intended to be held in the City of Philadelphia, for the Purpose of revising the Federal Constitution."*

SEC. 1. Whereas, by the act to which this act is a supplement, certain persons were appointed as deputies from this state to sit in the said Convention; And whereas it is the desire of the General Assembly, that his excellency, Benjamin Franklin, Esq., president of this state, should also sit in the said Convention, as deputy from this state; and therefore,

SEC. 2. *Be it enacted, and it is hereby enacted, by the representatives of the free-men of the commonwealth of Pennsylvania, in General Assembly met, and by the authority of the same,* That his excellency, Benjamin Franklin, Esq., be, and he is hereby, appointed and authorized to sit in the said Convention as a deputy from this state, in addition to the persons heretofore appointed; and that he be, and he hereby is, invested with like powers and authorities as are invested in the said deputies, or any of them.

Signed by order of the House,

THOMAS MIFFLIN, *Speaker.*

Enacted into a law at Philadelphia, on Wednesday, the 28th day of March, in the year of our Lord 1787.

PETER ZACHARY LLOYD,

*Clerk of the General Assembly.*

I, Matthew Irwine, Esq., master of the rolls for the state of Pennsylvania, do certify the above to be a true copy (or exemplification) of a supplement to a certain act of Assembly, which supplement is lodged in my office.

In witness whereof, I have hereunto set my hand and seal of office, the 15th May, [L. s.] A. D. 1787. MATTHEW IRWINE, *M. R.*

#### DELAWARE STATE.

His excellency, Thomas Collins, Esq., president, captain-general, and commander-in-chief, of the Delaware state,

*To all to whom these presents shall come, Greeting:*

Know ye, that, among the laws of the said state, passed by the General Assembly of the same, on the 3d day of February, in the year of our Lord 1787, it is thus enrolled:—

"In the eleventh year of the independence of the Delaware state.

*"An Act appointing Deputies from this State to the Convention proposed to be held in the City of Philadelphia, for the Purpose of revising the Federal Constitution."*

Whereas the General Assembly of this state are fully convinced of the necessity of revising the Federal Constitution, and adding thereto such further provisions as may

render the same more adequate to the exigencies of the Union; And whereas the legislature of Virginia have already passed an act of that commonwealth, appointing and authorizing certain commissioners to meet, at the city of Philadelphia, in May next, a Convention of commissioners or deputies from the different states; and this state being willing and desirous of coöperating with the commonwealth of Virginia, and the other states in the Confederation, in so useful a design:—

*Be it therefore enacted by the General Assembly of Delaware,* that George Read, Gunning Bedford, John Dickinson, Richard Basset, and Jacob Broom, Esqrs., are hereby appointed deputies from this state to meet in 'the Convention of the deputies of other states, to be held at the city of Philadelphia, on the 2d day of May next; and the said George Read, Gunning Bedford, John Dickinson, Richard Basset, and Jacob Broom, Esqrs., or any three of them, are hereby constituted and appointed deputies from this state, with powers to meet such deputies as may be appointed and authorized by the other states to assemble in the said Convention at the city aforesaid, and to join with them in devising, deliberating on, and discussing, such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; and in reporting such act or acts, for that purpose, to the United States in Congress assembled, as, when agreed to by them, and duly confirmed by the several states, may effectually provide for the same. So always and provided, that such alterations or further provisions, or any of them, do not extend to that part of the 5th article of the Confederation of the said states, finally ratified on the 1st day of March, in the year 1781, which declares that, "In determining questions in the United States in Congress assembled, each state shall have one vote."

*And be it enacted,* That in case any of the said deputies hereby nominated shall happen to die, or resign his or their appointment, the president or commander-in-chief, with the advice of the privy council, in the recess of the General Assembly, is hereby authorized to supply such vacancies.

Signed by order of the House of Assembly.

JOHN COOK, *Speaker.*

Signed by order of the Council.

GEORGE CRAGGED, *Speaker.*

Passed at Dover, February 3, 1787.

All and singular which premises, by the tenor of these presents, I have caused to be exemplified. In testimony whereof, I have hereunto subscribed my name, and caused the great seal of the said state to be affixed to these presents, at New Castle, the 2d day of April, in the year of our Lord 1787, and in the 11th year of the independence of the United States of America.

Atteat. JAMES BOOTH, *Secretary.*

THOMAS COLLINS.

#### STATE OF MARYLAND.

*An Act for the Appointment of, and conferring Powers on, Deputies from this State to the Federal Convention.*

Be it enacted by the General Assembly of Maryland, That the Hon. James M'Henry, Daniel of St. Thomas Jenifer, Daniel Carroll, John Francis Mercer, and Luther Martin, Esqrs., be appointed and authorized, on behalf of this state, to meet such deputies as may be appointed and authorized, by any other of the United States, to assemble in Convention at Philadelphia, for the purpose of revising the federal system, and to join with them in considering such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; and in reporting such an act for that purpose, to the United States in Congress assembled, as, when agreed to by them, and duly confirmed by the several states, will effectually provide for the same; and the said deputies, or such of them as shall attend the said Convention, shall have full power to represent this state for the purposes aforesaid; and the said deputies are hereby directed to report the proceedings of the said Convention, and any act agreed to therein, to the next session of the General Assembly of this state.

By the House of Delegates, May 26, 1787. Read and assented to.

By order,

WM. HARWOOD, *Clerk.*

True copy from the original.

WM. HARWOOD, *Clerk H. D.*

By the Senate, May 26, 1787. Read and assented to.

By order,

J. DORSEY, *Clerk*

True copy from the original.

J. DORSEY, *Clerk Senate.*

W. SMALLWOOD.



## COMMONWEALTH OF VIRGINIA.

General Assembly begun and held at the Public Buildings in the city of Richmond, on Monday, the 16th day of October, in the year of our Lord 1786.

*An Act for appointing Deputies from this Commonwealth to a Convention proposed to be held in the City of Philadelphia, in May next, for the Purpose of revising the Federal Constitution.*

Whereas the commissioners who assembled at Annapolis, on the 14th day of September last, for the purpose of devising and reporting the means of enabling Congress to provide effectually for the commercial interests of the United States, have represented the necessity of extending the revision of the federal system to all its defects, and have recommended that deputies for that purpose be appointed by the several legislatures, to meet in Convention, in the city of Philadelphia, on the 2d day of May next, — a provision which was preferable to a discussion of the subject in Congress, where it might be too much interrupted by the ordinary business before them, and where it would, besides, be deprived of the valuable counsels of sundry individuals who are disqualified by the constitution or laws of particular states, or restrained by peculiar circumstances from a seat in that assembly: And whereas the General Assembly of this commonwealth, taking into view the actual situation of the confederacy, as well as reflecting on the alarming representations made, from time to time, by the United States in Congress, particularly in their act of the 15th day of February last, can no longer doubt that the crisis is arrived at which the good people of America are to decide the solemn question — whether they will, by wise and magnanimous efforts, reap the just fruits of that independence which they have so gloriously acquired, and of that union which they have cemented with so much of their common blood — or whether, by giving way to unmanly jealousies and prejudices, or to partial and transitory interests, they will renounce the auspicious blessings prepared for them by the revolution, and furnish to its enemies an eventful triumph over those by whose virtue and valor it has been accomplished: And whereas the same noble and extended policy, and the same fraternal and affectionate sentiments, which originally determined the citizens of this commonwealth to unite with their brethren of the other states in establishing a federal government, cannot but be felt with equal force now as motives to lay aside every inferior consideration, and to concur in such further concessions and provisions as may be necessary to secure the great objects for which that government was instituted, and to render the United States as happy in peace as they have been glorious in war: —

*Be it therefore enacted by the General Assembly of the commonwealth of Virginia,* That seven commissioners be appointed, by joint ballot of both houses of Assembly, who, or any three of them, are hereby authorized, as deputies from this commonwealth, to meet such deputies as may be appointed and authorized by other states, to assemble in Convention at Philadelphia, as above recommended, and to join with them in devising and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; and in reporting such an act, for that purpose, to the United States in Congress, as, when agreed to by them, and duly confirmed by the several states, will effectually provide for the same.

*And be it further enacted,* That, in case of the death of any of the said deputies, or of their declining their appointments, the executive are hereby authorized to supply such vacancies; and the governor is requested to transmit forthwith a copy of this act to the United States in Congress, and to the executives of each of the states in the Union.

[Signed]

JOHN JONES, *Speaker of the Senate.*

JOSEPH PRENTIS, *Speaker of the House of Delegates.*

A true copy from the enrolment. — JOHN BECKLEY, *Clerk H. D.*

## IN THE HOUSE OF DELEGATES.

MONDAY, the 4th of December, 1786.

The house, according to the order of the day, proceeded, by joint ballot with the Senate, to the appointment of seven deputies, from this commonwealth, to a Convention proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution; and the members having prepared tickets with the names of the persons to be appointed, and deposited the same in the ballot-boxes, Mr. Corbin, Mr. Mathews, Mr. David Stuart, Mr. George Nicholas, Mr. Richard Lee, Mr. Wills, Mr. Thomas Smith, Mr. Goodall, and Mr. Turberville, were nominated a committee to meet a committee from the Senate, in the conference chamber, and jointly

with them to examine the ballot-boxes, and report to the house on whom the majority of the votes should fall. The committee then withdrew, and, after some time, returned into the house, and reported that the committee had, according to order, met a committee from the Senate, in the conference chamber, and jointly with them examined the ballot-boxes, and found a majority of votes in favor of George Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason, and George Wythe, Esqrs.

Extract from the journal. JOHN BECKLEY, *Clerk H. Delegates*  
Attest, JOHN BECKLEY, *Clerk H. D.*

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IN THE HOUSE OF SENATORS.

MONDAY, the 4th of December, 1786.

The Senate, according to the order of the day, proceeded, by joint ballot with the House of Delegates, to the appointment of seven deputies, from this commonwealth, to a Convention proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution; and the members having prepared tickets, with the names of the persons to be appointed, and deposited the same in the ballot-boxes, Mr. Anderson, Mr. Nelson, and Mr. Lee, were nominated a committee to meet a committee from the House of Delegates, in the conference chamber, and jointly with them to examine the ballot boxes, and report to the house on whom the majority of votes should fall. The committee then withdrew, and, after some time, returned into the house, and reported that the committee had, according to order, met a committee from the House of Delegates, in the conference chamber, and jointly with them examined the ballot-boxes, and found a majority of votes in favor of George Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason, and George Wythe, Esqrs.

Extract from the journal. JOHN BECKLEY, *Clerk H. D.*  
Attest, H. BROOK, *Clerk S.*

[L. s.] VIRGINIA, TO WIT:

I do hereby certify and make known, to all whom it may concern, That John Beckley, Esq., is clerk of the House of Delegates for this commonwealth, and the proper officer for attesting the proceedings of the General Assembly of the said commonwealth, and that full faith and credit ought to be given to all things attested by the said John Beckley, Esq., by virtue of his office as aforesaid.

Given under my hand, as governor of the commonwealth of Virginia, and under the seal thereof, at Richmond, this 4th day of May, 1787. EDM. RANDOLPH.

[L. s.] VIRGINIA, TO WIT:

I do hereby certify, That Patrick Henry, Esq., one of the seven commissioners appointed by joint ballot of both houses of Assembly of the commonwealth of Virginia, authorized as a deputy therefrom to meet such deputies as might be appointed and authorized by other states to assemble in Philadelphia, and to join with them in devising and discussing all such alterations and further provisions as might be necessary to render the Federal Constitution adequate to the exigencies of the Union, and in reporting such an act for that purpose to the United States in Congress as, when agreed to by them, and duly confirmed by the several states, might effectually provide for the same, did decline his appointment aforesaid; and thereupon, in pursuance of an act of the General Assembly of the said commonwealth, entitled "An Act for appointing deputies from this commonwealth to a Convention proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution," I do hereby, with the advice of the council of state, supply the said vacancy by nominating James M'Clurg, Esq. a deputy for the purposes aforesaid.

Given under my hand, as governor of the said commonwealth, and under the seal thereof, this 2d day of May, in the year of our Lord 1787. EDM. RANDOLPH

THE STATE OF NORTH CAROLINA.

To the Hon. Alexander Martin, Esq., Greeting.

Whereas our General Assembly, in their late session, holden at Fayetteville, by adjournment, in the month of January last, did, by joint ballot of the Senate and

House of Commons, elect Richard Caswell, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Willie Jones, Esqrs., deputies to attend a Convention of delegates from the several United States of America, proposed to be held at the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution, —

We do therefore, by these presents, nominate, commissionate, and appoint you, the said Alexander Martin, one of the deputies for and in behalf, to meet with our other deputies at Philadelphia, on the 1st of May next, and with them, or any two of them, to confer with such deputies as may have been, or shall be, appointed by the other states, for the purpose aforesaid: To hold, exercise, and enjoy, the appointment aforesaid, with all powers, authorities, and emoluments, to the same belonging, or in any wise appertaining—you conforming, in every instance, to the act of our said Assembly, under which you are appointed.

Witness, Richard Caswell, Esq., our governor, captain-general, and commander-in-chief, under his hand and our seal, at Kinston, the 24th day of February, in the eleventh year of our independence, A. D. 1787.

RICH. CASWELL.

By his excellency's command. — WINSTON CASWELL, *P. Secretary.* [L. s.]

### THE STATE OF NORTH CAROLINA.

*To the Hon. William Richardson Davie, Esq., Greeting.*

Whereas our General Assembly, in their late session, holden at Fayetteville, by adjournment, in the month of January last, did, by joint ballot of the Senate and House of Commons, elect Richard Caswell, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Willie Jones, Esqrs., deputies to attend a Convention of delegates from the several United States of America, proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution, —

We do therefore, by these presents, nominate, commissionate, and appoint you, the said William Richardson Davie, one of the deputies for and in our behalf, to meet with other deputies at Philadelphia, on the 1st day of May next, and with them, or any two of them, to confer with such deputies as may have been, or shall be, appointed by the other states, for the purpose aforesaid: To hold, exercise, and enjoy, the said appointment, with all powers, authorities, and emoluments, to the same belonging, or in any wise appertaining—you conforming, in every instance, to the act of our said Assembly, under which you are appointed.

Witness, Richard Caswell, Esq., our governor, captain-general, and commander-in-chief, under his hand and our great seal, at Kinston, the 24th day of February, in the eleventh year of our independence, A. D. 1787.

RICH. CASWELL.

By his excellency's command. — WINSTON CASWELL, *P. Secretary.* [L. s.]

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### THE STATE OF NORTH CAROLINA.

*To the Hon. Richard Dobbs Spaight, Esq., Greeting.*

Whereas our General Assembly, in their late session, holden at Fayetteville, by adjournment, in the month of January last, did, by joint ballot of the Senate and House of Commons, elect Richard Caswell, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Willie Jones, Esqrs., deputies to attend a Convention of delegates from the several United States of America, proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution, —

We do therefore, by these presents, nominate, commissionate, and appoint you, the said Richard Dobbs Spaight, one of the deputies for and in behalf of us, to meet with our other deputies at Philadelphia, on the 1st day of May next, and with them, or any two of them, to confer with such deputies as may have been, or shall be, appointed by the other states, for the purposes aforesaid: To hold, exercise, and enjoy, the said appointment, with all powers, authorities, and emoluments, to the same incident and belonging, or in any wise appertaining—you conforming, in every instance, to the act of our said Assembly, under which you are appointed.

Witness, Richard Caswell, Esq., our governor, captain-general, and commander-in-chief, under his hand and our great seal, at Kinston, the 14th day of April, in the eleventh year of our independence, A. D. 1787.

RICH. CASWELL.

By his excellency's command. — WINSTON CASWELL, *P. Secretary.* [L. s.]

## STATE OF NORTH CAROLINA.

His excellency, Richard Caswell, Esq., governor, captain-general, and commander-in-chief, in and over the state aforesaid,

*To all to whom these presents shall come, Greeting.*

Whereas, by an act of the General Assembly of the said state, passed the 6th day of January last, entitled "An Act for appointing deputies from this state to a Convention proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution," among other things it is enacted, "that five commissioners be appointed by joint ballot of both houses of Assembly, who, or any three of them, are hereby authorized, "as deputies from this state, to meet at Philadelphia, on the 1st day of May next, then and there to meet and confer with such deputies as may be appointed by the other states for similar purposes, and with them to discuss and decide upon the most effectual means to remove the defects of our federal union, and to procure the enlarged purposes which it was intended to effect; and that they report such an act to the General Assembly of this state as, when agreed to by them, will effectually provide for the same:" And it is by the said act further enacted, "That, in case of the death or resignation of any of the deputies, or of their declining their appointments, his excellency, the governor for the time being, is hereby authorized to supply such vacancies:" And whereas, in consequence of the said act, Richard Caswell, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Willie Jones, Esqrs., were, by joint ballot of the two houses of Assembly, elected deputies for the purposes aforesaid; And whereas the said Richard Caswell hath resigned his said appointment, as one of the deputies aforesaid; —

Now, know ye, That I have appointed, and by these presents do appoint, the Hon. William Blount, Esq., one of the deputies to represent this state in the Convention aforesaid, in the room and stead of the aforesaid Richard Caswell, hereby giving and granting to the said William Blount the said powers, privileges, and emoluments, which the said Richard Caswell would have been vested with, or entitled to, had he continued in the appointment aforesaid.

Given under my hand, and the great seal of the state, at Kinston, the 23d day of April, Anno Domini 1787, and in the 11th year of American independence.

RICH. CASWELL.

By his excellency's command. — WINSTON CASWELL, *P. Secretary.* [L. S.]

## STATE OF NORTH CAROLINA.

His excellency, Richard Caswell, Esq., governor, captain-general, and commander-in-chief, in and over the state aforesaid,

*To all to whom these presents shall come, Greeting.*

Whereas, by an act of the General Assembly of the said state, passed the 6th day of January last, entitled "An Act for appointing deputies from this state to a Convention proposed to be held in the city of Philadelphia, in May next, for the purpose of revising the Federal Constitution," among other things it is enacted, "That five commissioners be appointed by joint ballot of both houses of Assembly, who, or any three of them, are hereby authorized, as deputies from this state, to meet at Philadelphia, on the 1st day of May next, then and there to meet and confer with such deputies as may be appointed by the other states for similar purposes, and with them to discuss and decide upon the most effectual means to remove the defects of our federal union, and to procure the enlarged purposes which it was intended to effect and that they report such an act to the General Assembly of this state as, when agreed to by them, will effectually provide for the same;" And it is by the said act further enacted, "That, in case of the death or resignation of any of the deputies, or their declining their appointments, his excellency, the governor for the time being, is hereby authorized to supply such vacancies;" —

And whereas, in consequence of the said act, Richard Caswell, Alexander Martin, William Richardson Davie, Richard Dobbs Spaight, and Willie Jones, Esqrs., were, by joint ballot of the two houses of Assembly, elected deputies for the purpose aforesaid; And whereas the said Willie Jones hath declined his appointment as one of the deputies aforesaid; —

Now, know ye, That I have appointed, and by these presents do appoint, the Hon. Hugh Williamson, Esq., one of the deputies to represent this state in the Convention



aforesaid, in the room and stead of the aforesaid Willie Jones, hereby giving and granting to the said Hugh Williamson the same powers, privileges, and emoluments, which the said W. Jones would have been vested with and entitled to, had he acted under the appointment aforesaid.

Given under my hand and the great seal of the state, at Kinston, the 3d day of April, Anno Domini 1787, and in the 11th year of American independence.

RICH. CASWELL.

By his excellency's command. — DALLAM CASWELL, *Pro. Secretary.*

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STATE OF SOUTH CAROLINA.

By his excellency, Thomas Pinckney, Esq., governor and commander-in-chief, in and over the state aforesaid.

*To the Hon. John Rutledge, Esq., Greeting.*

By virtue of the power and authority in me vested by the legislature of this state, in their act passed the 8th day of March last, I do hereby commission you, the said John Rutledge, as one of the deputies appointed from this state, to meet such deputies or commissioners as may be appointed and authorized by other of the United States to assemble in Convention, at the city of Philadelphia, in the month of May next, or as soon thereafter as may be, and to join with such deputies or commissioners (they being duly authorized and empowered) in devising and discussing all such alterations, clauses, articles, and provisions, as may be thought necessary to render the Federal Constitution entirely adequate to the actual situation and future good government of the confederated states; and that you, together with the said deputies or commissioners, or a majority of them, who shall be present, (provided the state be not represented by less than two,) do join in reporting such an act to the United States in Congress assembled, as, when approved and agreed to by them, and duly ratified and confirmed by the several states, will effectually provide for the exigencies of the Union.

Given under my hand and the great seal of the state, in the city of Charleston, this 10th day of April, in the year of our Lord 1787, and of the sovereignty and independence of the United States of America the eleventh.

THOMAS PINCKNEY.

By his excellency's command. — PETER FRENEAU, *Secretary.* [L. s.]

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STATE OF SOUTH CAROLINA.

By his excellency, Thomas Pinckney, Esq., governor and commander-in-chief in and over the state aforesaid.

*To the Hon. Charles Pinckney, Esq., Greeting.*

By virtue of power and authority in me vested by the legislature of this state, in their act passed the 8th day of March last, I do hereby commission you, the said Charles Pinckney, as one of the deputies appointed from this state to meet such deputies or commissioners as may be appointed and authorized by other of the United States, to assemble in Convention at the city of Philadelphia, in the month of May next, or as soon thereafter as may be, and to join with such deputies or commissioners (they being duly authorized and empowered) in devising and discussing all such alterations, clauses, articles, and provisions, as may be thought necessary to render the Federal Constitution entirely adequate to the actual situation and future good government of the confederated states; and that you, together with the said deputies or commissioners, or a majority of them who shall be present, (provided the state be not represented by less than two,) do join in reporting such an act to the United States in Congress assembled, as, when approved and agreed to by them, and duly ratified and confirmed by the several states, will effectually provide for the exigencies of the Union.

Given under my hand and the great seal of the state, in the city of Charleston, this 10th day of April, in the year of our Lord 1787, and of the sovereignty and independence of the United States of America the eleventh.

THOMAS PINCKNEY

By his excellency's command. — PETER FRENEAU, *Secretary.* [L. s.]

## STATE OF SOUTH CAROLINA.

By his excellency, Thomas Pinckney, Esq., governor and commander-in-chief in and over the state aforesaid.

*To the Hon. Charles Cotesworth Pinckney, Esq., Greeting.*

By virtue of the power and authority in me vested by the legislature of this state, in their act passed the 8th day of March last, I do hereby commission you, the said Charles Cotesworth Pinckney, as one of the deputies appointed from this state, to meet such deputies or commissioners as may be appointed and authorized by other of the United States, to assemble in Convention at the city of Philadelphia, in the month of May next, or as soon thereafter as may be, and join with such deputies or commissioners (they being duly authorized and empowered) in devising and discussing all such alterations, clauses, articles, and provisions, as may be thought necessary to render the Federal Constitution entirely adequate to the actual situation and future good government of the confederated states; together with the said deputies or commissioners, or a majority of them who shall be present, (provided the state be not represented by less than two,) to join in reporting such an act to the United States in Congress assembled, as, when approved and agreed to by them, and duly ratified and confirmed by the several states, will effectually provide for the exigencies of the Union.

Given under my hand and the great seal of the state, in the city of Charleston, this 10th day of April, in the year of our Lord 1787, and of the sovereignty and independence of the United States of America the eleventh.

THOMAS PINCKNEY.

By his excellency's command. — PETER FRENEAU, *Secretary.* [L. s.]

## STATE OF SOUTH CAROLINA.

By his excellency, Thomas Pinckney, Esq., governor and commander-in-chief over the state aforesaid.

*To the Hon. Pierce Butler, Esq., Greeting.*

By virtue of the power and authority in me vested by the legislature of this state, in their act passed the 8th day of March last, I do hereby commission you, the said Pierce Butler, as one of the deputies appointed from this state, to meet such deputies or commissioners as may be appointed or authorized by other of the United States, to assemble in Convention at the city of Philadelphia, in the month of May next, or as soon thereafter as may be, and to join with such deputies or commissioners (they being duly authorized and empowered) in devising and discussing all such alterations, clauses, articles, and provisions, as may be thought necessary to render the Federal Constitution entirely adequate to the actual situation and future good government of the confederated states; and that you, together with the said deputies and commissioners, or a majority of them who shall be present, (provided the state be not represented by less than two,) do join in reporting such an act to the United States in Congress assembled, as, when approved and agreed to by them, and duly ratified and confirmed by the several states, will effectually provide for the exigencies of the Union.

Given under my hand and the great seal of the state, in the city of Charleston, this 10th day of April, in the year of our Lord 1787, and of the sovereignty and independence of the United States of America the eleventh.

THOMAS PINCKNEY.

By his excellency's command. — PETER FRENEAU, *Secretary.* [L. s.]

## STATE OF GEORGIA.

By the Hon. George Mathews, Esq., captain-general, governor, and commander-in-chief, in and over the state aforesaid.

*To all to whom these presents shall come, Greeting.*

Know ye, That John Milton, Esq., who hath certified the annexed copy of an ordinance, entitled "An Ordinance for the Appointment of Deputies from this State, for the Purpose of revising the Federal Constitution," is secretary of the said state, in whose office the archives of the same are deposited; — Therefore, all due faith, credit, and authority, are, and ought to be, had and given the same.

In testimony whereof, I have hereunto set my hand, and caused the great seal of

the said state to be put and affixed, at Augusta, the 24th day of April, in the year of our Lord 1787, and of our sovereignty and independence the eleventh.

GEO. MATHEWS, [L. s.]

By his honor's command. — J. MILTON.

*An Ordinance for the Appointment of Deputies from this State, for the Purpose of revising the Federal Constitution.*

Be it ordained by the representatives of the freemen of the state of Georgia, in General Assembly met, and by authority of the same, that William Few, Abraham Baldwin, William Pierce, George Walton, William Houston, and Nathaniel Pendleton, Esqrs., be, and they are hereby, appointed commissioners, who, or any two or more of them, are hereby authorized, as deputies from this state, to meet such deputies as may be appointed and authorized by other states, to assemble in Convention at Philadelphia, and to join with them in devising and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union, and in reporting such an act for that purpose to the United States in Congress assembled as, when agreed to by them, and duly confirmed by the several states, will effectually provide for the same. In case of the death of any of the said deputies, or of their declining their appointments, the executive are hereby authorized to supply such vacancies.

By order of the house. Signed, WM. GIBBONS, *Speaker.*  
AUGUSTA, the 10th *February*, 1787.

GEORGIA. *Secretary's Office.*

The above is a true copy from the original ordinance deposited in my office.

AUGUSTA, 24th *April*, 1787.

J. MILTON, *Secretary.*

The State of Georgia, by the grace of God, free, sovereign, and independent,  
*To the Hon. William Few, Esq.*

Whereas you, the said William Few, are, in and by an ordinance of the General Assembly of our said state, nominated and appointed a deputy to represent the same in a Convention of the United States, to be assembled at Philadelphia, for the purposes of devising and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union, —

You are therefore hereby commissioned to proceed on the duties required of you in virtue of the said ordinance.

Witness our trusty and well-beloved George Mathews, Esq., our captain-general, governor, and commander-in-chief, under his hand and our great seal, this 17th day of April, in the year of our Lord 1787, and of our sovereignty and independence the eleventh.

GEO. MATHEWS, [L. s.]

By his honor's command. — J. MILTON, *Secretary.*

The State of Georgia, by the grace of God, free, sovereign, and independent,  
*To the Hon. William Pierce, Esq.*

Whereas you, the said William Pierce, are, in and by an ordinance of the General Assembly of our said state, nominated and appointed a deputy to represent the same in Convention of the United States, to be assembled at Philadelphia, for the purpose of devising and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union, — You are therefore hereby commissioned to proceed on the duties required of you in virtue of the said ordinance.

Witness our trusty and well-beloved George Mathews, Esq., our captain-general, governor, and commander-in-chief, under his hand and our great seal, at Augusta, this 17th day of April, in the year of our Lord 1787, and of our sovereignty and independence the eleventh.

GEO. MATHEWS, [L. s.]

By his honor's command. — J. MILTON, *Secretary.*

The State of Georgia, by the grace of God, free, sovereign, and independent,  
*To the Hon. William Houston, Esq.*

Whereas you, the said William Houston, are, in and by an ordinance of the General Assembly of our said state, nominated and appointed a delegate to represent the

same in a Convention of the United States, to be assembled at Philadelphia, for the purpose of devising and discussing all such alterations and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union, —

You are therefore hereby commissioned to proceed on the duties required of you in virtue of the same ordinance.

Witness our trusty and well-beloved George Mathews, Esq., our captain-general, governor, and commander-in-chief, under his hand and our great seal, at Augusta, this 17th day of April, in the year of our Lord 1787, and of our sovereignty and independence the eleventh.

GEO. MATHEWS, [L. s.]

By his honor's command. — J. MILTON, *Secretary*.

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## JOURNAL OF THE FEDERAL CONVENTION

ON MONDAY, *the 14th of May, A. D. 1787*, and in the eleventh year of the independence of the United States of America, at the State-House in the city of *Philadelphia*, in virtue of appointments from their respective states, sundry deputies to the Federal Convention appeared; but a majority of the states not being represented, the members present adjourned, from day to day, until Friday, the 25th of the said month, when, in virtue of the said appointments, appeared, from the states of

### *Massachusetts,*

The Hon. Rufus King, Esq.;

### *New York,*

The Hon. Robert Yates, and  
Alexander Hamilton, Esqrs.;

### *New Jersey,*

The Hon. David Brearly,  
William Churchill Houston, and  
William Patterson, Esqrs.;

### *Pennsylvania,*

The Hon. Robert Morris,  
Thomas Fitzsimmons,  
James Wilson, and  
Gouverneur Morris, Esqrs.;

### *Delaware,*

The Hon. George Read  
Richard Bassett, and  
Jacob Broom, Esqrs.;

### *Virginia,*

His Excell'cy, Geo. Washington, Esq.,  
His Excellency, E. Randolph, Esq.,  
The Hon. John Blair  
James Madison,  
George Mason,  
George Wythe, and  
James M'Clurg, Esqrs.;

### *North Carolina,*

The Hon. Alexander Martin,  
William Richardson Davie,  
Richard Dobbs Spaight, and  
Hugh Williamson, Esqrs.;

### *South Carolina,*

The Hon. John Rutledge,  
Charles Cotesworth Pinckney,  
Charles Pinckney, and  
Pierce Butler, Esqrs.;

### *Georgia,*

The Hon. William Few, Esq.



It was moved by the Hon. Robert Morris, Esq., one of the deputies from Pennsylvania, that a president be elected by ballot, which was agreed to; and thereupon he nominated, on the part of the said state, his excellency, George Washington, Esq.

The members then proceeded to ballot on behalf of their respective states; and, the ballots being taken, it appeared that the said George Washington was unanimously elected; and he was conducted to the chair by the Hon. Robert Morris and John Rutledge, Esqrs.

The president then proposed to the house that they should proceed to the election of a secretary; and the ballots being taken, it appeared that William Jackson, Esq., was elected.

The following credentials were produced and read. [See *Credentials.*]

The house then appointed Nicholas Weaver messenger, and Joseph Frye door-keeper.

On motion of Mr. C. Pinckney,

“*Ordered*, That a committee be appointed to draw up rules to be observed as the standing orders of the Convention, and to report the same to the house.”

A committee, by ballot, was appointed of Mr. Wythe, Mr. Hamilton, and Mr. C. Pinckney.

And then the house adjourned till Monday next, at 10 o'clock.

IN THE FEDERAL CONVENTION, MONDAY, *May 28*, 1787.

The Convention met agreeably to adjournment.

The Hon. Nathaniel Gorham, and Caleb Strong, Esqrs., deputies from the state of Massachusetts; the Hon. Oliver Ellsworth, Esq., a deputy from the state of Connecticut; the Hon. Gunning Bedford, Esq., a deputy from the state of Delaware; and the Hon. James M'Henry, Esq., a deputy from the state of Maryland, — attended and took their seats.

The following credentials were produced and read. [See *Credentials.*]

His excellency, Benjamin Franklin, Esq., and the Hon. George Clymer, Thomas Mifflin, and Jared Ingersoll, Esqrs., four of the deputies of the state of Pennsylvania, attended and took their seats.

Mr. Wythe reported from the committee, (to whom the drawing up rules proper, in their opinion, to be observed by the Convention in their proceedings, as standing orders, was

referred,) that the committee had drawn up the rules accordingly, and had directed him to report them to the house. And he read the report in his place, and afterwards delivered it in at the secretary's table, where the said rules were once read throughout, and then a second time, one by one; and upon the question, severally put thereupon, two of them were disagreed to; and the rest, with amendments to some of them, were agreed to by the house; which rules, so agreed to, are as follow:—

“RULES TO BE OBSERVED AS THE STANDING ORDERS OF THE CONVENTION.

“A house, to do business, shall consist of the deputies of not less than seven states; and all questions shall be decided by the greater number of these states which shall be fully represented. But a less number than seven may adjourn from day to day.

“Immediately after the president shall have taken the chair, and the members their seats, the minutes of the preceding day shall be read by the secretary.

“Every member, rising to speak, shall address the president; and, whilst he shall be speaking, none shall pass between them, or hold discourse with another, or read a book, pamphlet, or paper, printed or manuscript.

“And of two members rising at the same time, the president shall name him who shall be first heard.

“A member shall not speak oftener than twice, without special leave, upon the same question; and not the second time, before every other, who had been silent, shall have been heard, if he choose to speak upon the subject.

“A motion made and seconded shall be repeated, and if written, as it shall be when any member shall so require, read aloud, by the secretary, before it shall be debated; and may be withdrawn at any time before the vote upon it shall have been declared.

“Orders of the day shall be read next after the minutes, and either discussed or postponed before any other business shall be introduced.

“When a debate shall arise upon a question, no motion, other than to amend the question, to commit it, or to postpone the debate, shall be received.

“A question which is complicated shall, at the request of any member, be divided, and put separately upon the propositions of which it is compounded.

“The determination of a question, although fully debated, shall be postponed, if the deputies of any state desire it, until the next day.

“A writing which contains any matter brought on to be considered, shall be read once throughout, for information: then by paragraphs, to be debated; and again, with the amendments, if any, made on the second reading; and afterwards, the question shall be put upon the whole, amended, or approved in its original form, as the case shall be.

“That committees shall be appointed by ballot; and that the members who have the greatest number of ballots although not a majority of

the votes present, be the committee. When two or more members have an equal number of votes, the member standing first on the list, in the order of taking down ballots, shall be preferred.

“A member may be called to order by any other member, as well as by the president, and may be allowed to explain his conduct, or expressions, supposed to be reprehensible; and all questions of order shall be decided by the president, without appeal or debate.

“Upon a question to adjourn for the day, which may be made at any time, if it be seconded, the question shall be put without a debate.

“When the house shall adjourn, every member shall stand in his place until the president pass him.

“*Resolved*, That the said rules be observed as standing orders of the house.”

A letter from sundry persons of the state of Rhode Island, addressed to the honorable the chairman of the General Convention, was presented to the chair by Mr. G. Morris; and, being read, —

“*Ordered*, That the said letter do lie upon the table for further consideration.”

A motion was made by Mr. Butler, one of the deputies of South Carolina, that the house provide against interruption of business by absence of members, and against licentious publication of their proceedings.

Also, a motion was made by Mr. Spaight, one of the deputies of North Carolina, to provide that, on the one hand, the house may not be precluded, by a vote upon any question, from revising the subject matter of it, when they see cause; nor, on the other hand, be led too hastily to rescind a decision, which was the result of mature discussion.

“*Ordered*, That the said motions be referred to the consideration of the committee appointed, on Friday last, to draw up rules to be observed as the standing orders of the Convention; and that they do examine the matters thereof, and report thereupon to the house.”

Adjourned till to-morrow at 10 o'clock, A. M.

TUESDAY, May 29, 1787.

Mr. Wythe reported, from the committee to whom the motions made by Mr. Butler and Mr. Spaight were referred, that the committee had examined matters of the said motions, and had come to the following resolutions thereupon: —

“*Resolved*, That it is the opinion of this committee that provision be made for the purposes mentioned in the said motions; and to that end, the committee beg leave to propose, that the rules written under their resolution be added to the standing orders of the house.”

And the said rules were once read throughout, and then, a second time, one by one; and on the question, severally

put thereupon, were, with amendments to some of them, agreed to by the house; which rules, so agreed to, are as follow: —

“RULES.

“That no member be absent from the house, so as to interrupt the representation of the state, without leave.

“That committees do not sit whilst the house shall be, or ought to be, sitting.

“That no copy be taken of any entry on the Journal during the sitting of the house, without the leave of the house.

“That members only be permitted to inspect the Journal.

“That nothing spoken in the house be printed, or otherwise published, or communicated, without leave.

“That a motion to reconsider a matter which had been determined by a majority, may be made, with leave unanimously given, on the same day on which the vote passed; but otherwise not without one day's previous notice; in which last case, if the house agree to the reconsideration, some future day shall be assigned for that purpose.

“*Resolved*, That the said rules be added to the standing orders of the house.”

The Hon. John Dickinson, Esq., a deputy of the state of Delaware, and the Hon. Elbridge Gerry, Esq., a deputy from the state of Massachusetts, attended and took their seats.

Mr. Randolph, one of the deputies of Virginia, laid before the house, for their consideration, sundry propositions, in writing, concerning the American Confederation, and the establishment of a national government.

RESOLUTIONS OFFERED BY MR. EDMUND RANDOLPH TO THE CONVENTION, MAY 29, 1787.

“1. *Resolved*, That the Articles of the Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, common defence, security of liberty, and general welfare.

“2. *Resolved*, therefore, That the right of suffrage, in the national legislature, ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other may seem best, in different cases.

“3. *Resolved*, That the national legislature ought to consist of two branches.

“4. *Resolved*, That the members of the first branch of national legislature ought to be elected by the people of the several states, every \_\_\_\_\_, for the term of \_\_\_\_\_, to be of the age of \_\_\_\_\_ years, at least; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular state, or under the authority of the United States, (except those peculiarly belonging to the functions of the first



branch,) during the term of service and for the space of \_\_\_\_\_ after its expiration; to be incapable of reelection for the space of \_\_\_\_\_ after the expiration of their term of service; and to be subject to recall.

“5. *Resolved*, That the members of the second branch of the national legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual legislatures, to be of the age of \_\_\_\_\_ years, at least; to hold their offices for a term sufficient to insure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular state, or under the authority of the United States, (except those particularly belonging to the functions of the second branch,) during the term of service; and for the space of \_\_\_\_\_ after the expiration thereof.

“6. *Resolved*, That each branch ought to possess the right of originating acts; that the national legislature ought to be empowered to enjoy the legislative right vested in Congress by the Confederation; and, moreover, to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several states, contravening, in the opinion of the national legislature, the articles of union, or any treaty subsisting under the authority of the Union; and to call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof.

“7. *Resolved*, That a national executive be instituted, to be chosen by the national legislature for the term of \_\_\_\_\_ years, to receive punctually, at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made, so as to affect the magistracy existing at the time of the increase or diminution; to be ineligible a second time; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation.

“8. *Resolved*, That the executive, and a convenient number of the national judiciary, ought to compose a council of revision, with authority to examine every act of the national legislature, before it shall operate, and every act of a particular legislature, before a negative thereon shall be final; and that the dissent of the said council shall amount to a rejection, unless the act of the national legislature be again passed, or that of a particular legislature be again negated by \_\_\_\_\_ of the members of each branch.

“9. *Resolved*, That a national judiciary be established \_\_\_\_\_ to hold their offices during good behavior, and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution. That the jurisdiction of the inferior tribunals shall be to hear and determine in the first instance, and of the supreme tribunal to hear and determine in the *dernier ressort*, all piracies and felonies on the seas; captures from an enemy; cases in which foreigners, or citizens of other states, applying to such jurisdictions, may be interested, or which respect the collection of the national revenue; impeachments of any national officer; and questions which involve the national peace or harmony.

“10. *Resolved*, That provision ought to be made for the admission of states, lawfully arising within the limits of the United States, whether

from a voluntary junction of government or territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

"11. *Resolved*, That a republican government, and the territory of each state, (except in the instance of a voluntary junction of government and territory,) ought to be guarantied by the United States to each state.

"12. *Resolved*, That provision ought to be made for the continuance of Congress, and their authorities and privileges, until a given day, after the reform of the articles of union shall be adopted, and for the completion of all their engagements.

"13. *Resolved*, That provision ought to be made for the amendment of the articles of union, whensoever it shall seem necessary; and that the assent of the national legislature ought not to be required thereto.

"14. *Resolved*, That the legislative, executive, and judiciary powers within the several states ought to be bound by oath to support the articles of union.

"15. *Resolved*, That the amendments, which shall be offered to the Confederation by the Convention, ought, at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people to consider and decide thereon.

"16. *Resolved*, That the house will to-morrow resolve itself into a committee of the whole house, to consider of the state of the American Union

"*Ordered*, That the propositions this day laid before the house, for their consideration, by Mr. Randolph, be referred to the said committee."

Mr. Charles Pinckney, one of the deputies of South Carolina, laid before the house, for their consideration, the draft of a federal government, to be agreed upon between the free and independent states of America.

#### MR. CHARLES PINCKNEY'S DRAFT OF A FEDERAL GOVERNMENT.

[Paper furnished by Mr. Pinckney.]

"We, the people of the states of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following constitution, for the government of ourselves and posterity.

"ART. I. The style of this government shall be *The United States of America*, and the government shall consist of supreme legislative, executive, and judicial powers.

"ART. II. The legislative power shall be vested in a Congress, to consist of two separate houses; one to be called the *House of Delegates*, and the other the *Senate*, who shall meet on the \_\_\_\_\_ day of \_\_\_\_\_ in every year.

"ART. III. The members of the House of Delegates shall be chosen every \_\_\_\_\_ year by the people of the several states; and the qualifications of the electors shall be the same as those of the electors in the several states for their legislatures. Each member shall have been a citizen of the United States for \_\_\_\_\_ years, shall be of \_\_\_\_\_ years of age, and a resident in the state he is chosen for \_\_\_\_\_, until a census of the

people shall be taken in the manner herein mentioned. The House of Delegates shall consist of \_\_\_\_\_, to be chosen from the different states in the following proportions: for New Hampshire, \_\_\_\_\_; for Massachusetts, \_\_\_\_\_; for Rhode Island, \_\_\_\_\_; for Connecticut, \_\_\_\_\_; for New York, \_\_\_\_\_; for New Jersey, \_\_\_\_\_; for Pennsylvania, \_\_\_\_\_; for Delaware, \_\_\_\_\_; for Maryland, \_\_\_\_\_; for Virginia, \_\_\_\_\_; for North Carolina, \_\_\_\_\_; for South Carolina, \_\_\_\_\_; for Georgia, \_\_\_\_\_; — and the legislature shall hereafter regulate the number of delegates by the number of inhabitants, according to the provisions hereinafter made, at the rate of one for every \_\_\_\_\_ thousand. All money bills, of every kind, shall originate in the House of Delegates, and shall not be altered by the Senate. The House of Delegates shall exclusively possess the power of impeachment, and shall choose its own officers; and vacancies therein shall be supplied by the executive authority of the state in the representation from which they shall happen.

“ART. IV. The Senate shall be elected and chosen by the House of Delegates, which house, immediately after their meeting, shall choose by ballot \_\_\_\_\_ senators from among the citizens and residents of New Hampshire; \_\_\_\_\_ from among those of Massachusetts; \_\_\_\_\_ from among those of Rhode Island; \_\_\_\_\_ from among those of Connecticut; \_\_\_\_\_ from among those of New York; \_\_\_\_\_ from among those of New Jersey; \_\_\_\_\_ from among those of Pennsylvania; \_\_\_\_\_ from among those of Delaware; \_\_\_\_\_ from among those of Maryland; \_\_\_\_\_ from among those of Virginia; \_\_\_\_\_ from among those of North Carolina; \_\_\_\_\_ from among those of South Carolina; and \_\_\_\_\_ from among those of Georgia. The senators chosen from New Hampshire, Massachusetts, Rhode Island, and Connecticut, shall form one class; those from New York, New Jersey, Pennsylvania, and Delaware, one class; and those from Maryland, Virginia, North Carolina, South Carolina, and Georgia, one class. The House of Delegates shall number these classes one, two, and three, and fix the times of their service by lot. The first class shall serve for \_\_\_\_\_ years, the second for \_\_\_\_\_ years, and the third for \_\_\_\_\_ years. As their times of service expire, the House of Delegates shall fill them up by elections for \_\_\_\_\_ years, and they shall fill all vacancies that arise from death, or resignation, for the time of service remaining of the members so dying or resigning. Each senator shall be \_\_\_\_\_ years of age, at least; shall have been a citizen of the United States four years before his election; and shall be a resident of the state he is chosen from. The Senate shall choose its own officers.

“ART. V. Each state shall prescribe the time and manner of holding elections by the people for the House of Delegates; and the House of Delegates shall be the judges of the elections, returns, and qualifications of their members.

“In each house a majority shall constitute a quorum to do business. Freedom of speech and debate in the legislature shall not be impeached, or questioned, in any place out of it; and the members of both houses shall, in all cases except for treason, felony, or breach of the peace, be free from arrest during their attendance on Congress, and in going to and returning from it. Both houses shall keep journals of their proceedings, and publish them, except on secret occasions; and the yeas and nays may be entered thereon at the desire of one \_\_\_\_\_ of the members present. Neither house, without the consent of the other, shall adjourn

for more than \_\_\_\_\_ days, nor to any place but where they are sitting.

“The members of each house shall not be eligible to, or capable of holding, any office under the Union, during the time for which they have been respectively elected; nor the members of the Senate for one year after. The members of each house shall be paid for their services by the states which they represent. Every bill which shall have passed the legislature shall be presented to the President of the United States, for his revision; if he approves it, he shall sign it; but if he does not approve it, he shall return it, with his objections, to the house it originated in; which house, if two thirds of the members present, notwithstanding the President's objections, agree to pass it, shall send it to the other house, with the President's objections; where, if two thirds of the members present also agree to pass it, the same shall become a law; and all bills sent to the President, and not returned by him within \_\_\_\_\_ days, shall be laws, unless the legislature, by their adjournment, prevent their return, in which case they shall not be laws.

“ART. VI. The legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises;

“To regulate commerce with all nations, and among the several states;

“To borrow money and emit bills of credit;

“To establish post-offices;

“To raise armies;

“To build and equip fleets;

“To pass laws for arming, organizing, and disciplining, the militia of the United States;

“To subdue a rebellion in any state, on application of its legislature;

“To coin money, and to regulate the value of all coins, and fix the standard of weights and measures;

“To provide such dock-yards and arsenals, and erect such fortifications, as may be necessary for the United States, and to exercise exclusive jurisdiction therein;

“To appoint a treasurer, by ballot;

“To constitute tribunals inferior to the Supreme Court;

“To establish post and military roads;

“To establish and provide for a national university at the seat of government of the United States;

“To establish uniform rules of naturalization;

“To provide for the establishment of a seat of government for the United States, not exceeding \_\_\_\_\_ miles square, in which they shall have exclusive jurisdiction;

“To make rules concerning captures from an enemy;

“To declare the law and punishment of piracies and felonies at sea, and of counterfeiting coin, and of all offences against the laws of nations;

“To call forth the aid of the militia to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions;

“And to make all laws for carrying the foregoing powers into execution.

“The legislature of the United States shall have the power to declare the punishment of treason, which shall consist only in levying war against the United States, or any of them, or in adhering to their enemies. No



person shall be convicted of treason but by the testimony of two witnesses.

“The proportion of direct taxation shall be regulated by the whole number of inhabitants of every description; which number shall, within years after the first meeting of the legislature, and within the term of every year, be taken, in the manner to be prescribed by the legislature.

“No tax shall be paid on articles exported from the states; nor capitation tax, but in proportion to the census before directed.

“All laws regulating commerce shall require the assent of two thirds of the members present in each house. The United States shall not grant any title of nobility. The legislature of the United States shall pass no law on the subject of religion, nor touching or abridging the liberty of the press; nor shall the privilege of the writ of *habeas corpus* ever be suspended, except in case of rebellion or invasion.

“All acts made by the legislature of the United States, pursuant to this constitution, and all treaties made under the authority of the United States, shall be the supreme law of the land; and all judges shall be bound to consider them as such in their decisions.

“ART. VII. The Senate shall have the sole and exclusive power to declare war; and to make treaties; and to appoint ambassadors and other ministers to foreign nations, and judges of the Supreme Court.

“They shall have the exclusive power to regulate the manner of deciding all disputes and controversies now subsisting, or which may arise, between the states, respecting jurisdiction or territory.

“ART. VIII. The executive power of the United States shall be vested in a President of the United States of America, which shall be his style; and his title shall be His Excellency. He shall be elected for years; and shall be reëligible.

“He shall, from time to time, give information to the legislature of the state of the Union, and recommend to their consideration the measures he may think necessary. He shall take care that the laws of the United States be duly executed. He shall commission all the officers of the United States; and, except as to ambassadors, other ministers, and judges of the Supreme Court, he shall nominate, and, with the consent of the Senate, appoint, all other officers of the United States. He shall receive public ministers from foreign nations, and may correspond with the executive of the different states. He shall have power to grant pardons and reprieves, except in impeachments. He shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, and shall receive a compensation which shall not be increased or diminished during his continuance in office. At entering on the duties of his office, he shall take an oath faithfully to execute the duties of a President of the United States. He shall be removed from his office on impeachment by the House of Delegates, and conviction, in the Supreme Court, of treason, bribery, or corruption. In case of his removal, death, resignation, or disability, the president of the Senate shall exercise the duties of his office, until another President be chosen. And in case of the death of the president of the Senate, the speaker of the House of Delegates shall do so.

“ART. IX. The legislature of the United States shall have the power, and it shall be their duty, to establish such courts of law, equity, and admiralty, as shall be necessary.

“The judges of the courts shall hold their offices during good behavior and receive a compensation which shall not be increased or diminished during their continuance in office. One of these courts shall be termed the Supreme Court, whose jurisdiction shall extend to all cases arising under the laws of the United States, or affecting ambassadors, other public ministers, and consuls; to the trial of impeachment of officers of the United States; to all cases of admiralty and maritime jurisdiction. In cases of impeachment affecting ambassadors, and other public ministers, this jurisdiction shall be original; and in all the other cases appellate.

“All criminal offences (except in cases of impeachment) shall be tried in the state where they shall be committed. The trials shall be open and public, and be by jury.

“ART. X. Immediately after the first census of the people of the United States, the House of Delegates shall apportion the Senate, by electing for each state, out of the citizens resident therein, one senator for every

members such state shall have in the House of Delegates. Each shall be entitled to have at least one member in the Senate.

“ART. XI. No state shall grant letters of marque and reprisal, or enter into treaty, or alliance, or confederation; nor grant any title of nobility; nor, without the consent of the legislature of the United States, lay any impost on imports; nor keep troops or ships of war in time of peace; nor enter into compacts with other states or foreign powers, or emit bills of credit, or make any thing but gold, silver, or copper, a tender in payment of debts; nor engage in war, except in self-defence, when actually invaded, or the danger of invasion is so great as not to admit of a delay until the government of the United States can be informed thereof. And to render these prohibitions effectual, the legislature of the United States shall have the power to revise the laws of the several states that may be supposed to infringe the powers exclusively delegated by this constitution to Congress, and to negative and annul such as do.

“ART. XII. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. Any person, charged with crimes in any state, fleeing from justice to another, shall, on demand of the executive of the state from which he fled, be delivered up, and removed to the state having jurisdiction of the offence.

“ART. XIII. Full faith shall be given, in each state, to the acts of the legislature, and to the records and judicial proceedings of the courts and magistrates of every state.

“ART. XIV. The legislature shall have power to admit new states into the Union on the same terms with the original states, provided two thirds of the members present in both houses agree.

“ART. XV. On the application of the legislature of a state, the United States shall protect it against domestic insurrection.

“ART. XVI. If two thirds of the legislatures of the states apply for the same, the legislature of the United States shall call a convention for the purpose of amending the constitution. Or should Congress, with the consent of two thirds of each house, propose to the states amendments to the same, the agreement of two thirds of the legislatures of the states shall be sufficient to make the said amendments parts of the constitution.

“The ratification of the conventions of states shall be sufficient for organizing this constitution.

*Ordered*, That the said draft be referred to the committee of the whole house appointed to consider of the state of the American Union."

And then the house adjourned till to-morrow morning at 10 o'clock.

WEDNESDAY, May 30, 1787.

The Hon. Roger Sherman, Esq., a deputy of the state of Connecticut, attended and took his seat. The order of the day being read, the house resolved itself into a committee of the whole house to consider of the state of the American Union. The president left the chair.

*In Committee of the whole House.*

Mr. Gorham, chosen by ballot, took the chair of the committee.

The propositions offered yesterday to the consideration of the house, by Mr. Randolph, were read; and, on motion of Mr. Randolph, seconded by Mr. G. Morris, "That the consideration of the 1st resolution contained in the said propositions be postponed," it was passed in the affirmative.

It was then moved by Mr. Randolph, and seconded by Mr. G. Morris, to substitute the following resolution in the place of the 1st resolution:—

*Resolved*, That a union of the states, merely federal, will not accomplish the objects proposed by the Articles of Confederation, namely, 'common defence, security of liberty, and general welfare.'"

It was now moved by Mr. Butler, seconded by Mr. Randolph, to postpone the consideration of the said resolution, in order to take up the following resolution, submitted by Mr. Randolph, viz.:—

*Resolved*, That a national government ought to be established, consisting of a supreme legislative, judiciary, and executive."

It was moved by Mr. Read, seconded by Mr. C. C. Pinckney, to postpone the consideration of the last resolution, in order to take up the following:—

*Resolved*, That, in order to carry into execution the design of the states, in forming this Convention, and to accomplish the objects proposed by the Confederation, 'a more effective government, consisting of a legislative, judiciary, and executive, ought to be established.'"

On the question to postpone, in order to take up the last resolution, the question was lost.

*Yeas*: Massachusetts, Connecticut, Delaware, South Carolina, 4.

*Nays*: New York, Pennsylvania, Virginia, North Carolina, 4.

On motion to agree to the said resolution, moved by Mr

Butler, it passed in the affirmative; and the resolution, as agreed to, is as follows:—

“*Resolved*, That it is the opinion of this committee that a national government ought to be established, consisting of a supreme legislative, judiciary, and executive.”

*Yeas*: Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 6. *Nay*: Connecticut, 1. *Divided*: New York, 1.

The following resolution was then moved by Mr. Randolph:—

“*Resolved*, That the rights of suffrage in the national legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.”

It was moved by Mr. Hamilton, seconded by Mr. Spaight, that the resolution be altered so as to read, —

“*Resolved*, That the rights of suffrage in the national legislature ought to be proportioned to the number of free inhabitants.”

It was moved and seconded, that the resolution be postponed; and on the question to postpone, it passed in the affirmative.

The following resolution was moved by Mr. Randolph, seconded by Mr. Madison:—

“*Resolved*, That the rights of suffrage in the national legislature ought to be proportioned —”

It was moved and seconded to add the words, “and not according to the present system.”

On the question to agree to the amendment, it passed in the affirmative.

It was then moved and seconded so to alter the resolution that it should read, —

“*Resolved*, That the rights of suffrage in the national legislature ought not to be according —”

It was then moved and seconded to postpone the consideration of the last resolution.

And on the question to postpone, it passed unanimously in the affirmative.

The following resolution was then moved by Mr. Madison, seconded by Mr. G. Morris:—

“*Resolved*, That the equality of suffrage, established by the Articles of Confederation, ought not to prevail in the national legislature; and that an equitable ratio of representation ought to be substituted.”

It was moved and seconded to postpone the consideration of the last resolution.

And on the question to postpone, it passed in the affirmative.



It was moved and seconded that the committee do now rise.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider the state of the American Union.”

And then the house adjourned till to-morrow, at 10 o'clock, A. M.

THURSDAY, May 31, 1787.

The Hon. William Pierce, Esq., a deputy of the state of Georgia, attended and took his seat.

The following credentials were produced and read. [See *Georgia Credentials*.]

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President in the chair.

*In the Committee of the whole House.*

Mr. Gorham in the chair.

It was moved and seconded that the committee proceed to the consideration of the following resolution, submitted by Mr. Randolph:—

“*Resolved*, That the national legislature ought to consist of two branches.”

And on the question to agree to the said resolution, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, Delaware, Virginia, North Carolina, South Carolina, 7. *Nays*: Pennsylvania, 1.

It was then moved and seconded to proceed to the consideration of the following clause of the 4th resolution, submitted by Mr. Randolph:—

“*Resolved*, That the members of the first branch of the national legislature ought to be elected by the people of the several states.”

And on the question to agree to the said clause of the 4th resolution, it passed in the affirmative.

*Yeas*: Massachusetts, New York, Pennsylvania, Virginia, North

Carolina, Georgia, 6. *Nays*: New Jersey, South Carolina, 2. *Divided*: Connecticut, Delaware, 2.

It was then moved and seconded to postpone the consideration of the remaining clauses in the said 4th resolution.

And on the question to postpone the remaining clauses of the said 4th resolution, it passed in the affirmative.

It was then moved and seconded to proceed to the consideration of the following resolution, being the 5th submitted by Mr. Randolph:—

“*Resolved*, That the members of the second branch of the national legislature ought to be elected by those of the first, out of,” &c.

And on the question to agree to the said 5th resolution, it passed in the negative.

*Yeas*: None. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 9. *Divided*: Delaware, 1.

It was then moved and seconded to proceed to the consideration of the following resolution, being the 6th submitted by Mr. Randolph:—

“*Resolved*, That each branch ought to possess the right of originating acts: that the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation; and moreover, to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation: to negative all laws, passed by the several states, contravening, in the opinion of the national legislature, the articles of the Union.”

The following words were added to this clause on motion of Mr. Franklin: “or any treaties subsisting under the authority of the Union.”

Questions being taken separately on the foregoing clauses of the 6th resolution, they were agreed to.

It was then moved and seconded to postpone the consideration of the last clause of the 6th resolution, namely, —

“To call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof.”

On the question to postpone the consideration of said clause, it passed in the affirmative.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them

referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union.”

And then the house adjourned till to-morrow, at 10 o'clock, A. M.

FRIDAY, June 1, 1787.

The Hon. William Houstoun, Esq., a deputy of the state of Georgia, attended and took his seat.

The following credential was produced and read. [See *Georgia Credentials*.]

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President in the chair.

*In the Committee of the whole House.*

Mr. Gorham in the chair.

It was moved and seconded to proceed to the consideration of the 7th resolution submitted by Mr. Randolph, namely, —

“*Resolved*, That a national executive be instituted; to be chosen by the national legislature, for the term of        years; to receive punctually, at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made, so as to affect the magistracy existing at the time of such increase or diminution; and to be ineligible a second time; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation.”

On motion of Mr. Wilson, seconded by Mr. C. Pinckney, to amend the 1st clause of the resolution, by adding, after the word “instituted,” the words “to consist of a single person,” so as to read, —

“*Resolved*, That a national executive, to consist of a single person, be instituted,” —

it was moved and seconded to postpone the consideration of the amendment.

And on the question to postpone, it passed in the affirmative.

It was then moved and seconded to agree to the 1st clause of the resolution, namely, —

“*Resolved*, That a national executive be instituted.”

And on the question to agree to the said clause, it passed in the affirmative.

It was then moved by Mr. Madison, seconded by Mr. Wilson, after the word “instituted,” to add the words. “with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; and to execute such other powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature.”

And on a division of the amendment, the following clauses were agreed to, namely, —

“With power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for.”

*Yeas*: Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Divided*: Connecticut, 1.

On the motion to continue the last clause of the amendment, namely, —

“And to execute such other powers, not legislative or judiciary in their nature, as may from time to time be delegated by the national legislature,”— it passed in the negative.

*Yeas*: Massachusetts, Virginia, South Carolina, 3. *Nays*: Connecticut, New York, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, 7.

It was then moved and seconded to fill up the blank with the word “seven,” so as to read, “for the term of seven years.”

And on the question to fill up the blank with the word “seven,” it passed in the affirmative.

*Yeas*: New York, New Jersey, Pennsylvania, Delaware, Virginia, 5. *Nays*: Connecticut, North Carolina, South Carolina, Georgia, 4. *Divided*: Massachusetts, 1.

It was then moved and seconded to postpone the consideration of the following words, namely, “to be chosen by the national legislature.”

And on the question to postpone, it passed in the affirmative.

It was then moved and seconded, that the committee do now rise, and report a further progress. The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.



“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union.”

And then the house adjourned till to-morrow, at 10 o'clock, A. M.

SATURDAY, June 2, 1787

The Hon. William Samuel Johnson, Esq., a deputy of the state of Connecticut, and the Hon. Daniel of St. Thomas Jenifer, a deputy of the state of Maryland, and the Hon. John Lansing, Jun., a deputy from the state of New York, attended and took their seats.

The following credentials were produced and read. [See *Credentials*.]

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved and seconded to postpone the further consideration of the resolution submitted by Mr. Randolph, which respects the executive, in order to take up the consideration of the resolution respecting the second branch of the legislature.

And on the question to postpone, it passed in the negative.

*Yeas*: New York, Pennsylvania, Maryland, 3. *Nays*: Massachusetts, Connecticut, Delaware, Virginia, North Carolina, South Carolina, Georgia, 7.

It was then moved and seconded to postpone the consideration of these words, namely, “to be chosen by the national legislature,” in order to take up the following resolution submitted by Mr. Wilson, namely, —

“*Resolved*, That the executive magistracy shall be elected in manner following: —

“That the states be divided into \_\_\_\_\_ districts, and that the persons qualified to vote in each district elect \_\_\_\_\_ members for their respective districts to be electors of the executive magistracy.

“That the electors of the executive magistracy meet, and they or any of them shall elect by ballot, but not out of their own body, \_\_\_\_\_ person in whom the executive authority of the national government shall be vested.”

And on the question to postpone, it passed in the negative.

*Yeas*: Pennsylvania, Maryland, 2. *Nays*: Massachusetts, Connecticut, Delaware, Virginia, North Carolina, South Carolina, Georgia, 7. *Divided*: New York, 1.

It was then moved and seconded to agree to the words in the resolution submitted by Mr. Randolph, so as to read, "to be chosen by the national legislature for the term of seven years."

On the question to agree to these words, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, Delaware, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Pennsylvania, Maryland, 2.

It was then moved and seconded to postpone the consideration of that part of the resolution, as submitted by Mr. Randolph, which respects the stipend of the executive, in order to introduce the following motion made by Dr. Franklin, namely, —

"Whose necessary expenses shall be defrayed, but who shall receive no salary, stipend, fee, or reward whatsoever, for their services."

And on the question to postpone, it passed in the affirmative.

It was then moved and seconded to postpone the consideration of the said motion offered by Dr. Franklin.

And on the question to postpone, it passed in the affirmative.

It was then moved by Mr. Dickinson, and seconded by Mr. Bedford, to amend the resolution before the committee, by adding, after the words "to be chosen by the national legislature for the term of seven years," the following words: "to be removable by the national legislature upon request by a majority of the legislatures of the individual states."

It was moved and seconded to strike out the words "upon request by a majority of the legislatures of the individual states."

On the question to strike out, it passed in the negative.

*Yeas*: Connecticut, South Carolina, Georgia, 3. *Nays*: Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7.

The question being taken to agree to the amendment offered by Mr. Dickinson, it passed in the negative.

*Yea*: Delaware, 1. *Nays*: Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

The question being then taken on the words contained in the resolution submitted by Mr. Randolph, namely, "to be ineligible a second time," it passed in the affirmative.

*Yeas*: Massachusetts, New York, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, 1. *Divided*: Pennsylvania, 1.

It was then moved by Mr. Williamson, seconded by Mr. Davie, to add the following words to the last clause of the resolution respecting the executive, namely: "and to be removable on impeachment and conviction of malpractice or neglect of duty."

On the motion to add the words, it passed in the affirmative.

It was then moved by Mr. Rutledge, seconded by Mr. C. Pinckney, to fill up the blank after the words "executive to consist of" with the words "one person."

It was then moved and seconded to postpone the consideration of the last motion.

And on the question to postpone, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, North Carolina, South Carolina, Georgia, 6. *Nays*: Pennsylvania, Delaware, Maryland, Virginia, 4.

It was then moved and seconded, that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

#### *In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

"*Resolved*, That this house will, on Monday, again resolve itself into a committee of the whole house, to consider of the state of the American Union."

And then the house adjourned till Monday next, at 11 o'clock.

MONDAY, June 4, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

#### *In Committee of the whole House.*

Mr Gorham in the chair.

It was moved and seconded to proceed to the further con

sideration of the propositions submitted to the committee by Mr. Randolph, when it was moved by Mr. C. Pinckney, seconded by Mr. Wilson, to fill up the blank after the words "that a national executive be instituted, to consist of," with the words "a single person."

On the question to fill up the blank with the words "a single person," it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New York, Delaware, Maryland, 3.

It was then moved and seconded to take into consideration the 1st clause of the 8th resolution submitted by Mr. Randolph, namely, —

"*Resolved*, That the national executive, and a convenient number of the national judiciary, ought to compose a council of revision."

It was then moved and seconded to postpone the consideration of the said clause, in order to introduce the following resolution, submitted by Mr. Gerry, namely, —

"*Resolved*, That the national executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by parts of each branch of the national legislature."

And on the question to postpone, it passed in the affirmative.

*Yeas*: Massachusetts, New York, Pennsylvania, North Carolina, South Carolina, Georgia, 6. *Nays*: Connecticut, Delaware, Maryland, Virginia, 4.

It was then moved by Mr. Wilson, seconded by Mr. Hamilton, to strike out the words "shall not be afterwards passed but by parts of each branch of the national legislature."

And on the question to strike out the words, it passed unanimously in the negative.

It was moved by Mr. Butler, seconded by Dr. Franklin, that the resolution be altered so as to read, —

"*Resolved*, That the national executive have a power to suspend any legislative act for —"

And on the question to agree to the alteration, it passed unanimously in the negative.

A question was then taken on the resolution submitted by Mr. Gerry, namely, —

"*Resolved*, That the national executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by two third parts of each branch of the national legislature."

And on the question to agree to the same, it passed in the affirmative.



*Yeas*: Massachusetts, New York, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, Maryland, 2.

It was then moved by Mr. Wilson, and seconded by Mr. Madison, that the following amendment be made to the last resolution — after the words “national executive,” to add the words “a convenient number of the national judiciary.”

An objection of order being taken, by Mr. Hamilton, to the introduction of the last amendment at this time, — notice was given by Mr. Wilson, seconded by Mr. Madison, that the same would be moved to-morrow. Wednesday assigned to reconsider.

It was then moved and seconded to proceed to the consideration of the 9th resolution submitted by Mr. Randolph, — when, on motion to agree to the first clause, namely, —

“*Resolved*, That a *national judiciary* be established,” — it passed in the affirmative.

It was then moved and seconded to add these words to the 1st clause of the 9th resolution, namely, —

“To consist of one supreme tribunal, and one or more inferior tribunals.”

And on the question to agree to the same, it passed in the affirmative.

It was then moved and seconded that the committee do now rise, and report a further progress, and request leave to sit again. The committee then rose.

#### *In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union.”

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, June 5, 1787.

His excellency, William Livingston, Esq., a deputy of the state of New Jersey, attended and took his seat.

The following credentials were then produced and read. [See *Credentials*, p. 163.]

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved and seconded to proceed to the further consideration of the 9th resolution submitted by Mr. Randolph.

It was then moved and seconded to amend the last clause by striking out the words "once more," so as to read, "and of inferior tribunals."

And on the question to strike out, it passed in the affirmative.

It was then moved and seconded to strike out the words "the national legislature," so as to read, "to be appointed by."

On the question to strike out, it passed in the affirmative.

Notice was given by Mr. Wilson, that he should, at a future day, move for a reconsideration of that clause which respects "inferior tribunals."

Mr. C. Pinckney gave notice that, when the clause which respects the appointment of the judiciary came before the committee, he should move to restore the words "the national legislature."

It was then moved and seconded to agree to the following part of the 9th resolution, namely, —

"To hold their office during good behavior; and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution."

And on the question to agree to the same, it passed in the affirmative.

It was then moved and seconded to postpone the remaining clause of the 9th resolution.

And on the question to postpone, it passed in the affirmative.

On the question to agree to the 10th resolution, as submitted by Mr. Randolph, namely, —

"*Resolved*, That provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole," —

it passed in the affirmative.

It was moved and seconded to postpone the consideration of the 11th resolution submitted by Mr. Randolph.

And on the question to postpone, it passed in the affirmative.

*Yeas*: Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays*: Connecticut, South Carolina, 2.

On the question to agree to the 12th resolution submitted by Mr. Randolph, namely, —

“*Resolved*, That provision ought to be made for the continuance of a Congress, and their authorities and privileges, until a given day, after the reform of the articles of union shall be adopted, and for the completion of all their engagements,” —

it passed in the affirmative.

*Yeas*: Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, Delaware, 2.

It was then moved and seconded to postpone the consideration of the 13th resolution submitted by Mr. Randolph.

On the question to postpone, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, North Carolina, 7. *Nays*: Virginia, South Carolina, Georgia, 3.

It was then moved and seconded to postpone the consideration of the 14th resolution submitted by Mr. Randolph.

And on the question to postpone, it passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Maryland, Virginia, South Carolina, Georgia, 6. *Nays*: New York, Pennsylvania, Delaware, North Carolina, 4. *Divided*: Massachusetts, 1.

It was moved and seconded to postpone the consideration of the 15th resolution submitted by Mr. Randolph.

And on the question to postpone, it passed in the affirmative.

It was moved by Mr. C. Pinckney, seconded by Mr. Rutledge, that to-morrow be assigned to reconsider that clause of the 4th resolution, which respects the election of the first branch of the national legislature.

And on the question to reconsider the same to-morrow, it passed in the affirmative.

*Yeas*: Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, 6. *Nays*: Massachusetts, New Jersey, North Carolina, South Carolina, Georgia, 5.

It was moved by Mr. Rutledge, seconded by Mr. Sherman, to strike out the following words in the 9th resolution submitted by Mr. Randolph, namely: "and of inferior tribunals."

And on the question to strike out, it passed in the affirmative.

*Yeas*: Connecticut, New Jersey, North Carolina, South Carolina, Georgia, 5. *Nays*: Pennsylvania, Delaware, Maryland, Virginia, 4. *Divided*: Massachusetts, New York, 2.

It was then moved and seconded that the following clause be added to the 9th resolution, namely: "that the national legislature be empowered to appoint inferior tribunals."

And on the question to agree to the same, it passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 7. *Nays*: Connecticut, New Jersey, South Carolina, 3. *Divided*: New York, 1.

It was then moved and seconded that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

#### *In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

"*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union."

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

WEDNESDAY, June 6, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

#### *In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved by Mr. C. Pinckney, seconded by Mr. Rutledge, to strike the word "people" out of the 4th resolution



submitted by Mr. Randolph, and to insert in its place the word "legislatures," so as to read, —

"*Resolved*, That the members of the first branch of the national legislature ought to be elected by the legislatures of the several states."

And on the question to strike out, it passed in the negative.

*Yeas*: Connecticut, New Jersey, South Carolina, 3. *Nays*: Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7.

On motion of Mr. Wilson, seconded by Mr. Madison, to amend the 8th resolution, which respects the negative to be vested in the national executive, by adding, after the words "national executive," the words "with a convenient number of the national judiciary."

On the question to agree to the addition of these words, it passed in the negative.

*Yeas*: Connecticut, New York, Virginia, 3. *Nays*: Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 7.

Mr. C. Pinckney gave notice, that to-morrow he should move for the reconsideration of that clause in the resolution, adopted by the committee, which vests a negative in the national legislature on the laws of the several states. Friday assigned to reconsider.

It was then moved and seconded, that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

#### *In the House.*

Mr. President in the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

"*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union."

And then the house adjourned till to-morrow at 11 o'clock, A. M.

#### *In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the com-

mittee had made a further progress, in the matter to them referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union.”

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, June 7, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

The following resolution was submitted by Mr. Dickinson, seconded by Mr. Sherman, namely: —

“*Resolved*, That the members of the second branch of the national legislature ought to be chosen by the individual legislatures.”

It was moved and seconded to postpone the last resolution, in order to introduce the following, submitted by Mr. Wilson, seconded by Mr. Morris, namely: —

“*Resolved*, That the second branch of the national legislature be elected by the people in districts, to be formed for that purpose.”

And on the question to postpone, it passed in the negative.

*Yea*: Pennsylvania, 1. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

A question was then taken on the resolution submitted by Mr. Dickinson, namely: —

“*Resolved*, That the members of the second branch of the national legislature ought to be chosen by the individual legislatures.”

And on the question to agree to the same, it passed unanimously in the affirmative.

Mr. Gerry gave notice that he would to-morrow move for the reconsideration of the resolution, which respects the appointment of the national executive, — when he should offer to substitute the following mode of appointing the national executive, namely: “by the executives of the several states.”

The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union.”

And then the house adjourned till to-morrow, at 10 o'clock, A. M.

FRIDAY, June 8, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. — Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved by Mr. Pinckney, seconded by Mr. Madison, to strike out the following words in the 6th resolution, adopted by the committee, namely, —

“To negative all laws passed by the several states, contravening, in the opinion of the national legislature, the articles of union, or any treaties subsisting under the authority of the Union,—”

and to insert the following words in their place, namely, —

“To negative all laws which to them shall appear improper.”

And on the question to strike out, it passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Virginia, 3. *Nays*: Connecticut, New York, New Jersey, Maryland, North Carolina, South Carolina, Georgia, 7. *Divided*: Delaware, 1.

It was moved by Mr. Gerry, seconded by Mr. King, to reconsider that clause of the 7th resolution adopted by the committee, which respects the appointment of the national executive.

On the question to reconsider, it passed in the affirmative.

*Yeas*: Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10. *Nays*: Connecticut, North Carolina, 2.

And to-morrow was assigned for the reconsideration.

It was then moved by Mr. C. Pinckney, seconded by Mr. Rutledge, that the following resolution be added after the 4th resolution, adopted by the committee, namely: —

“*Resolved*, That the states be divided into three classes; the first

class to have three members, the second two, and the third one member each; that an estimate be taken of the comparative importance of each state, at fixed periods, so as to ascertain the number of members they may from time to time be entitled to."

Before any debate was had, or determination taken on Mr. Pinckney's proposition, it was moved and seconded that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred; and had directed him to move that they may have leave to sit again.

"*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider of the state of the American Union."

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, June 9, 1787.

The Hon. Luther Martin, Esq., one of the deputies of the state of Maryland, attended and took his seat.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

A question being taken on Mr. Gerry's motion to strike out the following words, in that clause of the 7th resolution, adopted by the committee, which respects the appointment of the national executive, namely, "to be chosen by the national legislature," and to insert "to be chosen by the executives of the individual states," it passed in the negative.

*Yeas*: None. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Divided*: Delaware, 1.

It was moved by Mr. Patterson, seconded by Mr. Brearly, to enter on the consideration of the resolution submitted by Mr. Randolph.

After some time passed in debate, it was moved and seconded, that the committee do now rise, report a further



progress, and request leave to sit again. The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

“ *Resolved*, That this house will, on Monday next, resolve itself into a committee of the whole house on the state of the American Union.”

And then the house adjourned till Monday next, at 11 o'clock, A. M.

MONDAY, June 11, 1787

The Hon. Abraham Baldwin, Esq., one of the deputies of the state of Georgia, attended and took his seat.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved by Mr. King, seconded by Mr. Rutledge, to agree to the following resolution, namely: —

“ *Resolved*, That the right of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation.”

And on the question to agree to the same, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New York, New Jersey, Delaware, 3. *Divided*: Maryland, 1.

It was then moved by Mr. Rutledge, seconded by Mr. Butler, to add the following words to the last resolution, namely, “ according to the quotas of contribution.”

It was moved by Mr. Wilson, seconded by Mr. C. Pinckney, to postpone the consideration of the last motion, in order to introduce the following words after the words “ equitable ratio of representation,” namely, —

“ In proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each state.”

On the question to postpone, it passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10  
*Nays* : Delaware, 1.

On the question to agree to Mr. Wilson's motion, it passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays* : New Jersey, Delaware, 2.

It was moved by Mr. Sherman, seconded by Mr. Ellsworth, "that in the second branch of the national legislature each state have a vote."

On the question to agree to the same, it passed in the negative.

*Yeas* : Connecticut, New York, New Jersey, Delaware, Maryland, 5.  
*Nays* : Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6.

It was then moved by Mr. Wilson, seconded by Mr. Hamilton, to adopt the following resolution, namely : —

"*Resolved*, That the right of suffrage, in the second branch of the national legislature, ought to be according to the rule established for the first."

On the question to agree to the same, it passed in the affirmative.

*Yeas* : Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays* : Connecticut, New York, New Jersey, Delaware, Maryland, 5.

It was moved and seconded to amend the 11th resolution submitted by Mr. Randolph, by adding the words "voluntary junction, or partition." Passed in the affirmative.

*Yeas* : Massachusetts, New York, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays* : Connecticut, New Jersey, Delaware, Maryland, 4.

It was moved and seconded to amend the resolution, by adding the words "national government" after the words —

*Yeas* : Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays* : New York, New Jersey, Delaware, Maryland, 4.

It was moved and seconded to agree to the 11th resolution submitted by Mr. Randolph, amended to read as follows : —

"*Resolved*, That a republican constitution, and its existing laws, ought to be guarantied to each state, by the United States."

And on the question to agree to the same, it passed unanimously in the affirmative.

It was then moved and seconded to agree to the following resolution : —

“ *Resolved*, That provision ought to be made for the amendment of the articles of union, whensoever it shall seem necessary.”

On the question to agree to the same, it passed in the affirmative.

It was agreed to postpone the following clause in the 13th resolution submitted by Mr. Randolph, namely : —

“ And that the assent of the national legislature ought not to be required thereto.”

It was then moved and seconded to agree to the 14th resolution submitted by Mr. Randolph, namely : —

“ *Resolved*, That the legislative, executive, and judiciary powers, within the several states, ought to be bound by oath to support the articles of union.”

It was then moved by Mr. Martin, seconded by ———, to strike out the words “ within the several states.”

And on the question to strike out, it passed in the negative.

*Yeas* : Connecticut, New Jersey, Delaware, Maryland, 4. *Nays* : Massachusetts, New York, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7.

It was then moved and seconded to agree to the 14th resolution, as submitted by Mr. Randolph.

And on the question to agree to the same, it passed in the affirmative.

*Yeas* : Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays* : Connecticut, New York, New Jersey, Delaware, Maryland, 5.

It was moved and seconded to agree to the 15th resolution submitted by Mr. Randolph.

And on the question to agree to the same, it passed in the affirmative.

*Yeas* : Massachusetts, Virginia, North Carolina, South Carolina, Georgia, 5. *Nays* : Connecticut, New York, New Jersey, 3. *Divided* : Delaware, Maryland, 2

It was then moved and seconded, that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

### *In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them

referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider the state of the American Union.”

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, *June 12*, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved and seconded to fill up the blank, in the 4th resolution, respecting the term for which the members of the first branch of the national legislature should be chosen, with the words “three years.”

On the motion to fill up with “three years,” it passed in the affirmative.

*Yeas*: New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 7. *Nays*: Massachusetts, Connecticut, North Carolina, South Carolina, 4.

It was moved and seconded to strike out the following words in the 4th resolution, namely, “to be of years at least.”

And on the question to strike out, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Maryland, 1.

It was moved and seconded to add the words “and fixed,” after the word “liberal,” in that clause of the 4th resolution which respects the stipend of the first branch. Passed in the affirmative.

*Yeas*: New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays*: Massachusetts, Connecticut, South Carolina, 3.

It was then moved and seconded to add the words “to be paid out of the public treasury.” Agreed to.

*Yeas*: Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays*: Connecticut, New York, South Carolina, 3.



A question being taken on the clause respecting the salary of the first branch, it passed in the affirmative.

*Yeas*: Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays*: Connecticut, New York, South Carolina, 3.

It was moved and seconded to strike out the words "by a particular state." Passed in the negative.

*Yeas*: Connecticut, New York, North Carolina, South Carolina, 4. *Nays*: New Jersey, Pennsylvania, Delaware, Virginia, Georgia, 5. *Divided*: Massachusetts, Maryland, 2.

A question being taken on the clause which respects the ineligibility of the members of the first branch, it passed in the affirmative.

*Yeas*: Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Connecticut, 1.

It was moved and seconded to amend the 4th resolution by inserting the words "and under the national government for the space of three years after its expiration." Passed in the negative.

*Yea*: Maryland, 1. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10.

Moved and seconded to fill up the blank with "one year." Passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 8. *Nays*: New York, Georgia, 2. *Divided*: Maryland, 1.

It was moved and seconded to strike out the following words, namely: "to be incapable of reëlection for the space of \_\_\_\_\_ after the expiration of their term of service, and to be subject to recall."

On the question to strike out, passed in the affirmative.

It was moved and seconded to strike out the words "to be of \_\_\_\_\_ years at least," from the 5th resolution. Passed in the negative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, 3. *Nays*: Massachusetts, New York, Delaware, Maryland, Virginia, South Carolina, 6. *Divided*: North Carolina, Georgia, 2.

Moved to fill up the blank with "thirty." Passed in the affirmative.

*Yeas*: Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, 7. *Nays*: Connecticut, New Jersey, Delaware, Georgia, 4.

Moved and seconded to fill up the blank after the words "sufficient to insure their independency," with "seven years." Passed in the affirmative.

*Yeas*: New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nay*: Connecticut, 1. *Diviæd*: Massachusetts, New York, 2.

It was moved by Mr. Rutledge, seconded by Mr. Butler, to strike out the clause which respects stipends to be allowed to the second branch.

On the question to strike out, passed in the negative.

*Yeas*: Connecticut, Delaware, South Carolina, 3. *Nays*: New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, 7. *Divided*: Massachusetts, 1.

It was then moved and seconded that the clause which respects the stipends to be given to the second branch be the same as the first. Passed in the affirmative.

It was moved and seconded that the ineligibility of the second branch to office be the same as the first. Passed in the affirmative.

*Yeas*: Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Connecticut, 1.

It was moved and seconded to alter the resolutions submitted by Mr. Randolph, so as to read as follows, namely: "that the jurisdiction of the supreme tribunal shall be to hear and determine, in the *dernier ressort*, all piracies, felonies," &c.

It was moved and seconded to postpone the whole of the last clause generally.

It was then moved and seconded to strike out the words "all piracies and felonies on the high seas." Passed in the affirmative.

It was moved and seconded to strike out the words "all captures from an enemy." Passed in the affirmative.

It was moved and seconded to strike out the words "other states," and to insert the words "two distinct states in the Union." Passed in the affirmative.

It was moved and seconded to postpone the consideration of the resolution which respects the judiciary. Passed in the affirmative.

It was then moved and seconded that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will to-morrow again resolve itself into a committee of the whole house, to consider the state of the American Union.”

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

WEDNESDAY, June 13, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved by Mr. Randolph, seconded by Mr. Madison, to adopt the following resolution respecting the national judiciary, namely:—

“That the jurisdiction of the national judiciary shall extend to cases which respect the collection of the national revenue, impeachments of any national officers, and questions which involve the national peace and harmony.”

Passed in the affirmative.

It was moved by Mr. Pinckney, seconded by Mr. Sherman, to insert, after the words “one supreme tribunal,” “the judges of which to be appointed by the second branch of the national legislature.” Passed in the affirmative.

It was moved by Mr. Gerry, seconded by Mr. Pinckney, to add the following words to the 5th resolution adopted by the committee, namely: “excepting money bills, which shall originate in the first branch of the national legislature.” Passed in the negative.

*Yeas*: New York, Delaware, Virginia, 3. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, North Carolina, South Carolina, Georgia, 8.

It was then moved and seconded that the committee do rise and report the proceedings to the house. The committee then rose.

*In the House.*

Mr. President resumed the chair

Mr Gorham reported, from the committee, That the com

mittee, having considered and gone through the propositions offered to the house by the Hon. Mr. Randolph, and to them referred, were prepared to report thereon, and had directed him to submit the report to the consideration of the house.

The report was then delivered in at the secretary's table, and having been once read, it was moved by Mr. Randolph, seconded by Mr. Martin, to postpone the further consideration of the report till to-morrow.

And on the question to postpone, it passed in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, June 14, 1787.

It was moved by Mr. Patterson, seconded by Mr. Randolph, that the further consideration of the report from the committee of the whole house be postponed till to-morrow; and before the question for postponement was taken, it was moved by Mr. Randolph, seconded by Mr. Patterson, that the house adjourn.

And then the house adjourned till to-morrow, at 11 o'clock.

FRIDAY, June 15, 1787.

Mr. Patterson submitted several resolutions to the consideration of the house, which he read in his place, and afterwards delivered in at the secretary's table. They were then read.

PROPOSITIONS OFFERED TO THE CONVENTION BY THE  
HON. MR. PATTERSON, JUNE 15, 1787.

[Paper furnished by General Bloomfield.]

"1. *Resolved*, That the Articles of Confederation ought to be revised, corrected, and enlarged, so as to render the Federal Constitution adequate to the exigencies of government, and the preservation of the Union.

"2. *Resolved*, That, in addition to the powers vested in the United States in Congress, by the present existing Articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods and merchandise of foreign growth or manufacture, imported into any part of the United States; by stamps on paper, vellum, or parchment; and by a postage on all letters and packages passing through the general post-office — to be applied to such federal purposes as they shall deem proper and expedient; to make rules and regulations for the collection thereof; and the same from time to time to alter and amend, in such manner as they shall think proper. To pass acts for the regulation of trade and commerce, as well with foreign nations as with each other; provided, that all punishments, fines, forfeitures, and penalties, to be in-



curred for contravening such rules and regulations, shall be adjudged by the common-law judiciary of the states in which any offence contrary to the true intent and meaning of such rules and regulations shall be committed or perpetrated; with liberty of commencing, in the first instance, all suits or prosecutions for that purpose in the superior common-law judiciary of such state; subject, nevertheless, to an appeal for the correction of all errors both in law and fact, in rendering judgment, to the judiciary of the United States.

"3. *Resolved*, That, whenever requisitions shall be necessary, instead of the present rules, the United States in Congress be authorized to make such requisitions in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that, if such requisitions be not complied with in the time to be specified therein, to direct the collection thereof in the non-complying states; and for that purpose to devise and pass acts directing and authorizing the same; provided, that none of the powers hereby vested in the United States in Congress shall be exercised without the consent of at least     states; and in that proportion, if the number of confederated states should be hereafter increased or diminished.

"4. *Resolved*, That the United States in Congress be authorized to elect a federal executive to consist of     persons, to continue in office for the term of     years; to receive punctually, at stated times, a fixed compensation for the services by them rendered, in which no increase or diminution shall be made, so as to affect the persons composing the executive at the time of such increase or diminution; to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service, and for     years thereafter; to be ineligible a second time, and removable on impeachment and conviction for malpractices or neglect of duty, by Congress, on application by a majority of the executives of the several states. That the executive, besides a general authority to execute the federal acts, ought to appoint all federal officers not otherwise provided for, and to direct all military operations; provided, that none of the persons composing the federal executive shall, on any occasion, take command of any troops, so as personally to conduct any military enterprise as general, or in any other capacity.

"5. *Resolved*, That a federal judiciary be established, to consist of a supreme tribunal, the judges of which to be appointed by the executive, and to hold their offices during good behavior; to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution. That the judiciary, so established, shall have authority to hear and determine, in the first instance, on all impeachments of federal officers; and by way of appeal, in the *dernier ressort*, in all cases touching the rights and privileges of ambassadors; in all cases of captures from an enemy; in all cases of piracies and felonies on the high seas; in all cases in which foreigners may be interested, in the construction of any treaty or treaties, or which may arise on any act or ordinance of Congress for the regulation of trade, or the collection of the federal revenue. That none of the judiciary officers shall, during the time they remain in office, be capable of receiving or holding any other office or appointment during their term of service, or for     thereafter.

“6. *Resolved*, That the legislative, executive, and judiciary powers, within the several states, ought to be bound, by oath, to support the articles of union.

“7. *Resolved*, That all acts of the United States in Congress assembled, made by virtue and in pursuance of the powers hereby vested in them, and by the Articles of Confederation, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective states as far as those acts or treaties shall relate to the said states, or their citizens; and that the judiciaries of the several states shall be bound thereby in their decisions, any thing in the respective laws of the individual states to the contrary notwithstanding.

“And if any state, or any body of men in any state, shall oppose or prevent the carrying into execution such acts or treaties, the federal executive shall be authorized to call forth the powers of the confederated states, or so much thereof as may be necessary, to enforce and compel an obedience to such acts, or an observance of such treaties.

“8. *Resolved*, That provision ought to be made for the admission of new states into the Union.

“9. *Resolved*, That provision ought to be made for hearing and deciding upon all disputes arising between the United States and an individual state, respecting territory.

“10. *Resolved*, That the rule for naturalization ought to be the same in every state.

“11. *Resolved*, That a citizen of one state, committing an offence in another state, shall be deemed guilty of the same offence as if it had been committed by a citizen of the state in which the offence was committed.”

It was moved by Mr. Madison, seconded by Mr. Sherman, to refer the resolutions, offered by Mr. Patterson, to a committee of the whole house; which passed in the affirmative.

It was moved by Mr. Rutledge, seconded by Mr. Hamilton, to recommit the resolutions reported from a committee of the whole house; which passed in the affirmative.

“*Resolved*, That this house will to-morrow resolve itself into a committee of the whole house, to consider of the state of the Union.”

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, June 16, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

After some time passed in debate on the propositions offered by the Hon. Mr. Patterson,—

It was moved and seconded that the committee do now rise, report further progress, and request leave to sit again. The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a progress in the matter to them referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That this house will, on Monday next, again resolve itself into a committee of the whole house, to consider of the state of the American Union.”

And then the house adjourned till Monday next, at 11 o'clock.

MONDAY, June 18, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House.*

Mr. Gorham in the chair.

It was moved by Mr. Dickinson, seconded by \_\_\_\_\_, to postpone the consideration of the 1st resolution submitted by Mr. Patterson, in order to introduce the following, namely:—

“*Resolved*, That the Articles of Confederation ought to be revised and amended, so as to render the government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union.”

And on the question to agree to the same, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.  
*Divided*: Pennsylvania, 1.

[See *Colonel Hamilton's Plan*, on next page.]

It was then moved and seconded that the committee do now rise, report a further progress, and request leave to sit again. The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee had made a further progress in the matter to them

referred, and had directed him to move that they may have leave to sit again.

“*Resolved*, That the house will to-morrow again resolve itself into a committee of the whole house, to consider the state of the American Union.”

#### COLONEL HAMILTON'S PLAN OF GOVERNMENT.

*The following paper was read by Colonel Hamilton, as containing his ideas of a suitable Plan of Government for the United States, in a speech upon the foregoing motion of Mr. Dickinson.*

[Paper furnished by General Bloomfield.]

“1. The supreme legislative power of the United States of America to be vested in two distinct bodies of men, the one to be called the Assembly, the other the Senate, who, together, shall form the legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

“2. The Assembly to consist of persons elected by the people, to serve for three years.

“3. The Senate to consist of persons elected to serve during good behavior; their election to be made by electors chosen for that purpose by the people. In order to this, the states to be divided into election districts. On the death, removal, or resignation of any senator, his place to be filled out of the district from which he came.

“4. The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior. His election to be made by electors, chosen by electors, chosen by the people in the election districts aforesaid. His authorities and functions to be as follows:—

“To have a negative upon all laws about to be passed, and the execution of all laws passed; to have the entire direction of war, when authorized or begun; to have, with the advice and approbation of the Senate, the power of making all treaties; to have the sole appointment of the heads or chief officers of the departments of finance, war, and foreign affairs; to have the nomination of all other officers, (ambassadors of foreign nations included,) subject to the approbation or rejection of the Senate; to have the power of pardoning all offences except treason, which he shall not pardon without the approbation of the Senate.

“5. On the death, resignation, or removal of the governor, his authorities to be exercised by the president of the Senate, until a successor be appointed.

“6. The Senate to have the sole power of declaring war; the power of advising and approving all treaties; the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of finance, war, and foreign affairs.

“7. The supreme judicial authority of the United States to be vested in judges, to hold their offices during good behavior, with adequate and permanent salaries. This court to have original jurisdiction in all causes of capture; and an appellate jurisdiction in all causes in which the revenues of the general government, or the citizens of foreign nations, are concerned.

“8. The legislature of the United States to have power to institute



courts in each state, for the determination of all matters of general concern.

“9. The governors, senators, and all officers of the United States to be liable to impeachment for mal and corrupt conduct; and, upon conviction, to be removed from office, and disqualified for holding any place of trust or profit. All impeachments to be tried by a court, to consist of the chief or senior judge of the superior court of law, in each state; provided, that such judge hold his place during good behavior, and have a permanent salary.

“10. All laws of the particular states, contrary to the Constitution or laws of the United States, to be utterly void. And the better to prevent such laws being passed, the governor or president of each state shall be appointed by the general government, and shall have a negative upon the laws about to be passed in the state of which he is governor or president.

“11. No state to have any forces, land or naval; and the militia of all the states to be under the sole and exclusive direction of the United States; the officers of which to be appointed and commissioned by them.”

TUESDAY, June 19, 1787.

The order of the day being read, the house resolved itself into a committee of the whole house, to consider of the state of the American Union. Mr. President left the chair.

*In Committee of the whole House*

Mr. Gorham in the chair.

On the question to adopt Mr. Dickinson's motion, moved yesterday, it passed in the negative.

*Yeas*: Connecticut, New York, New Jersey, Delaware, 4. *Nays*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Divided*: Maryland, 1.

It was then moved and seconded to postpone the consideration of the 1st proposition offered by Mr. Patterson. It passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: New York, New Jersey, 2.

It was then moved and seconded that the committee do now rise, and report to the house that they do not agree to the propositions offered by the Hon. Mr. Patterson; and that they report the resolutions offered by the Hon. Mr. Randolph, heretofore reported from a committee of the whole house. Passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New York, New Jersey, Delaware, 3. *Divided*: Maryland, 1.

The committee then rose.

*In the House.*

Mr. President resumed the chair.

Mr. Gorham reported, from the committee, That the committee, having spent some time in the consideration of the propositions submitted to the house by the Hon. Mr. Patterson, and of the resolutions heretofore reported from a committee of the whole house, both of which had been to them referred, were prepared to report thereon; and had directed him to report to the house, That the committee do not agree to the propositions offered by the Hon. Mr. Patterson; and that they again submit the resolutions, formerly reported, to the consideration of the house.

STATE OF THE RESOLUTIONS, SUBMITTED TO THE CONSIDERATION OF THE HOUSE BY THE HON. MR. RANDOLPH,

AS ALTERED, AMENDED, AND AGREED TO, IN COMMITTEE OF THE WHOLE HOUSE.

[Paper deposited by President Washington, in the Department of State.]

“1. *Resolved*, That it is the opinion of this committee that a national government ought to be established, consisting of a supreme legislative, judiciary, and executive.

“2. *Resolved*, That the national legislature ought to consist of two branches.

“3. *Resolved*, That the members of the first branch of the national legislature ought to be elected by the people of the several states, for the term of three years; to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office established by a particular state, or under the authority of the United States, (except those peculiarly belonging to the functions of the first branch,) during the term of service, and under the national government, for the space of one year after its expiration.

“4. *Resolved*, That the members of the second branch of the national legislature ought to be chosen by the individual legislatures; to be of the age of thirty years, at least; to hold their offices for a term sufficient to insure their independency — namely, seven years; to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office established by a particular state, or under the authority of the United States, (except those peculiarly belonging to the functions of the second branch,) during the term of service, and under the national government, for the space of one year after its expiration.

“5. *Resolved*, That each branch ought to possess the right of originating acts.

“6. *Resolved*, That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation; and, moreover, to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by

the several states contravening, in the opinion of the national legislature, the articles of union, or any treaties subsisting under the authority of the Union.

"7. *Resolved*, That the right of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation; namely, in proportion to the whole number of white and other free citizens, and inhabitants of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each state.

"8. *Resolved*, That the rights of suffrage in the second branch of the national legislature ought to be according to the rule established for the first.

"9. *Resolved*, That a national executive be instituted, to consist of a single person; to be chosen by the national legislature, for the term of seven years; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be ineligible a second time; and to be removable on impeachment and conviction of malpractice, or neglect of duty; to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service, to be paid out of the national treasury.

"10. *Resolved*, That the national executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by two third parts of each branch of the national legislature.

"11. *Resolved*, That a national judiciary be established, to consist of one supreme tribunal; the judges of which to be appointed by the second branch of the national legislature; to hold their offices during good behavior; to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

"12. *Resolved*, That the national legislature be empowered to appoint inferior tribunals.

"13. *Resolved*, That the jurisdiction of the national judiciary shall extend to cases which respect the collection of the national revenue, impeachment of any national officers, and questions which involve the national peace and harmony.

"14. *Resolved*, That provision ought to be made for the admission of states, lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

"15. *Resolved*, That provision ought to be made for the continuance of Congress and their authorities, until a given day after the reform of the articles of union shall be adopted, and for the completion of all their engagements.

"16. *Resolved*, That a republican constitution, and its existing laws, ought to be guaranteed to each state by the United States.

"17. *Resolved*, That provision ought to be made for the amendment of the articles of union whensoever it shall seem necessary.

"18. *Resolved*, That the legislative, executive, and judiciary powers, within the several states, ought to be bound, by oath, to support the articles of union.

“19. *Resolved*, That the amendments which shall be offered to the Confederation by the Convention, ought, at a proper time or times after the approbation of Congress, to be submitted to an assembly, or assemblies of representatives, recommended by the several legislatures to be expressly chosen by the people to consider and decide thereon.”

It was then moved and seconded to postpone the consideration of the 1st resolution reported from the committee till to-morrow.

And on the question to postpone, it passed in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

WEDNESDAY, June 20, 1787.

The Hon. Wm. Blount, Esq., a deputy from the state of North Carolina, attended and took his seat.

The following credentials were then produced and read. [See p. 171.]

It was moved by Mr. Ellsworth, seconded by Mr. Gorham, to amend the 1st resolution reported from the committee of the whole house, so as to read as follows, namely:—

“*Resolved*, That the government of the United States ought to consist of a supreme legislative, judiciary, and executive.”

On the question to agree to the amendment, it passed unanimously in the affirmative.

It was moved by Mr. Lansing, seconded by Mr. Sherman, to postpone the consideration of the 2d resolution, reported from the committee, in order to take up the following, namely:—

“*Resolved*, That the powers of legislation be vested in the United States in Congress.”

And on the question to postpone, it passed in the negative.

*Yeas*: Connecticut, New York, New Jersey, Delaware, 4. *Nays*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Divided*: Maryland, 1.

It was moved and seconded to adjourn; which passed in the negative.

*Yeas*: New York, New Jersey, Delaware, Maryland, 4. *Nays*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7.

On motion of the deputies of the state of Delaware, the determination of the house on the 2d resolution reported from the committee was postponed until to-morrow.



And then the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, June 21, 1787.

The Hon. Jonathan Dayton, Esq., a deputy of the state of New Jersey, attended and took his seat.

The following credentials were produced and read. [See *Credentials.*]

It was moved and seconded to agree to the 2d resolution reported from the committee, namely: —

“*Resolved*, That the legislature consist of two branches;” which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New York, New Jersey, Delaware, 3. *Divided*: Maryland, 1.

It was moved by Gen. C. C. Pinckney, and seconded, to amend the 1st clause of the 3d resolution, reported from the committee, so as to read, —

“*Resolved*, That the members of the first branch of the legislature ought to be appointed in such manner as the legislature of each state shall direct.”

On the question to agree to the amendment, it passed in the negative.

*Yeas*: Connecticut, New Jersey, Delaware, South Carolina, 4. *Nays*: Massachusetts, New York, Pennsylvania, Virginia, North Carolina, Georgia, 6. *Divided*: Maryland, 1.

It was then moved and seconded to agree to the 1st clause of the 3d resolution, as reported from the committee, namely: —

“*Resolved*, That the members of the first branch of the legislature ought to be elected by the people of the several states:”

which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay*: New Jersey, 1. *Divided*: Maryland, 1.

It was moved and seconded to erase the word “three” from the 2d clause of the 3d resolution reported from the committee; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New York, Delaware, Maryland 3. *Divided*: New Jersey, 1.

It was moved and seconded to insert the word “two” in the 2d clause of the 3d resolution, reported from the committee; which passed unanimously in the affirmative.

And then the house adjourned till to-morrow. at 11 o'clock, A. M.

FRIDAY, June 22, 1787.

It was moved and seconded to strike out the 3d clause in the 3d resolution, reported from the committee, namely, "to receive fixed stipends, by which they may be compensated for the devotion of their time to the public service;" and to substitute, "their stipends to be ascertained by the legislature, to be paid out of the public treasury."

On the question being put, it passed in the negative.

*Yeas*: New Jersey, Pennsylvania, 2. *Nays*: Massachusetts, Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, 7. *Divided*: New York, Georgia, 2.

It was moved and seconded to strike the following words out of the 4th clause in the 3d resolution, reported from the committee, namely, "to be paid out of the public treasury."

On the question to strike out the words, it passed in the negative.

*Yeas*: Massachusetts, Connecticut, North Carolina, South Carolina, 4. *Nays*: New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 5. *Divided*: New York, Georgia, 2.

It was moved and seconded to strike the following words out of the 3d resolution, reported from the committee, namely, "to receive fixed stipends by which they may be compensated for the devotion of their time to public service;" and to substitute the following clause, namely, "to receive an adequate compensation for their services."

On the question to agree to the amendment, it passed unanimously in the affirmative.

It was then moved and seconded to take the vote of the house on the whole proposition, namely:—"to receive an adequate compensation for their services, to be paid out of the public treasury."

An objection of order being taken to this motion, it was submitted to the house.

And on the question, Is the motion in order? it passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, 6. *Nays*: New York, Pennsylvania, Virginia, Georgia, 1. *Divided*: Massachusetts, 1.

The determination of the house on the whole proposition was, on motion of the deputies of the state of South Carolina, postponed till to-morrow.

It was moved and seconded to add the following clause to the 3d resolution,—"to be of the age of twenty-five years at least,"—which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, 7. *Nays*: Massachusetts, Pennsylvania, Georgia, 3. *Divided*: New York, 1.

It was moved and seconded to strike out the following words in the last clause of the 3d resolution, —

“and under the national government for the space of one year after its expiration.”

On the question to strike out the words, it passed in the negative.

*Yeas*: Massachusetts, New Jersey, North Carolina, Georgia, 4. *Nays*: Connecticut, Maryland, Virginia, South Carolina, 4. *Divided*: New York, Pennsylvania, Delaware, 3.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, June 23, 1787.

It was moved and seconded to agree to the proposition, which was postponed yesterday, on motion of the deputies of the state of South Carolina, namely, —

“to receive an adequate compensation for their services, to be paid out of the public treasury.”

On the question to agree to the proposition, it passed in the negative.

*Yeas*: Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, 5. *Nays*: Connecticut, New York, Delaware, North Carolina, South Carolina, 5. *Divided*: Georgia, 1.

It was moved and seconded to strike out the following words in the 3d resolution reported from the committee, namely, “by a particular state.”

On the question to strike out the words, it passed in the affirmative.

*Yeas*: Connecticut, New York, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Massachusetts, Pennsylvania, Delaware, 3.

It was moved by Mr. Madison, and seconded, to amend the 3d resolution by striking out the following words, namely, —

“or under the authority of the United States, during the term of service, and under the national government, for the space of one year after its expiration,” —

and inserting the following clause, after the word “established,” namely, —

“or the emoluments whereof shall have been augmented by the legislature of the United States during the time, of their being members thereof, and until they shall have ceased to be members for the space of one year.”

On the question to agree to the amendment, it passed in the negative.

*Yeas*: Connecticut, New Jersey, 2. *Nays*: New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Divided*: Massachusetts, 1.

It was moved and seconded to add, after the words "ineligible to," the words "and incapable of holding;" which passed in the affirmative.

It was moved and seconded to strike the words "national government" out of the 3d resolution; which passed in the affirmative.

*Yeas*: Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, 8. *Nays*: Pennsylvania, Georgia, 2. *Divided*: Massachusetts, 1.

It was moved and seconded to strike the word "established" out of the 3d part of the resolution; which passed in the affirmative.

It was moved and seconded to add, after the word "service," in the 3d resolution, the words "of the first branch;" which passed in the affirmative.

It was then moved and seconded to agree to the words "and for the space of one year after its expiration."

On the question to agree to these words, it passed in the negative.

*Yeas*: New York, Delaware, Maryland, South Carolina, 4. *Nays*: Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, Georgia, 6. *Divided*: Pennsylvania, 1.

And then the house adjourned till Monday next, at 11 o'clock.

MONDAY, June 25, 1787.

It was moved and seconded to erase the word "national," and to substitute the words "United States," in the 4th resolution; which passed in the affirmative.

It was moved and seconded to postpone the consideration of the 1st clause of the 4th resolution, in order to take up the 3th resolution, reported from the committee.

On the question to postpone, it passed in the negative.

*Yeas*: New York, Virginia, South Carolina, Georgia, 4. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, 7.

It was moved and seconded to postpone the consideration of the 4th, in order to take up the 7th resolution.

On the question to postpone, it passed in the negative.



*Yeas*: Maryland, Virginia, North Carolina, South Carolina, Georgia, 5. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, 6.

It was moved and seconded to agree to the 1st clause of the 4th resolution, namely:—

“*Resolved*, That the members of the second branch of the legislature of the United States ought to be chosen by the individual legislatures.”

On the question to agree, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, 9. *Nays*: Pennsylvania, Virginia, 2.

It was moved and seconded to agree to the 2d clause of the 4th resolution, namely, “to be of the age of thirty years at least;” which passed unanimously in the affirmative.

It was moved and seconded to erase the words “sufficient to insure their independency,” from the 3d clause of the 4th resolution; which passed in the affirmative.

*Yeas*: Connecticut, New York, New Jersey, Pennsylvania, Delaware, South Carolina, Georgia, 7. *Nays*: Massachusetts, Maryland, Virginia, North Carolina, 4.

It was moved and seconded to add, after the words “seven years,” in the 4th resolution, the words “to go out in fixed proportions.”

It was moved and seconded to insert the word “six,” instead of “seven.”

It was moved and seconded to amend the clause so as to read, “for four years, one fourth to go out annually.”

No determination being taken on the three last motions, it was moved and seconded to erase the word “seven” from the 3d clause of the 4th resolution; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, New Jersey, North Carolina, South Carolina, Georgia, 7. *Nays*: Pennsylvania, Delaware, Virginia, 3. *Divided*: Maryland, 1.

It was moved and seconded to fill up the blank in the 3d clause of the 4th resolution with the word “six;” which passed in the negative.

*Yeas*: Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, 5. *Nays*: Massachusetts, New York, New Jersey, South Carolina, Georgia, 5. *Divided*: Maryland, 1.

It was moved and seconded to adjourn. Passed in the negative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, 5. *Nays*: Massachusetts, New York, North Carolina, South Carolina, Georgia, 5. *Divided*: Maryland, 1.

It was then moved and seconded to fill up the blank in the 3d clause of the 4th resolution with the word "five;" which passed in the negative.

*Yeas* : Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, 5. *Nays* : Massachusetts, New York, New Jersey, South Carolina, Georgia, 5. *Divided* : Maryland, 1.

It was moved and seconded to adjourn. Passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7. *Nays* : New York, New Jersey, South Carolina, Georgia, 4.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, June 26, 1787.

It was moved and seconded to amend the 3d clause of the 4th resolution, reported from the committee, so as to read as follows, namely, "for nine years, one third to go out triennially;" which passed in the negative.

*Yeas* : Pennsylvania, Delaware, Virginia, 3. *Nays* : Massachusetts, Connecticut, New York, New Jersey, Maryland, North Carolina, South Carolina, Georgia, 8.

It was then moved and seconded to amend the 3d clause of the 4th resolution so as to read, "for six years, one third to go out biennially."

On the question to agree to the amendment, it passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7. *Nays* : New York, New Jersey, South Carolina, Georgia, 4.

It was moved and seconded to strike the following clause out of the 4th resolution, "to receive fixed stipends, by which they may be compensated for the devotion of their time to public service." The question to strike out passed in the negative.

*Yeas* : Massachusetts, Connecticut, Pennsylvania, Maryland, South Carolina, 5. *Nays* : New York, New Jersey, Delaware, Virginia, North Carolina, Georgia, 6.

It was then moved and seconded to amend the 4th clause of the 4th resolution, so as to read, "to receive a compensation for the devotion of their time to the public service;" which passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 10. *Nay* South Carolina, 1.

It was moved and seconded to erase the following words from the 4th resolution, namely, "out of the national treasury," and to substitute the following, namely, "by their respective states;" which passed in the negative.

*Yeas*: Connecticut, New York, New Jersey, South Carolina, Georgia, 5. *Nays*: Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 6.

It was moved and seconded to agree to the following clause in the 4th resolution, namely, "to be paid out of the public treasury;" which passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, 5. *Nays*: Connecticut, New York, New Jersey, North Carolina, South Carolina, Georgia, 6.

It was moved and seconded to postpone the consideration of the last clause in the 4th resolution, as reported from the committee, in order to take up the following proposition, offered by Mr. Williamson, as a substitute, namely:—

"to be ineligible to, and incapable of holding, any office under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term for which they are elected."

On the question to postpone, it passed in the affirmative.

*Yeas*: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 6. *Nays*: Massachusetts, New York, New Jersey, South Carolina, Georgia, 5.

It was then moved and seconded to add, after the word "elected," the words "and for one year thereafter;" which passed in the affirmative.

*Yeas*: Connecticut, New York, Delaware, Maryland, Virginia, North Carolina, South Carolina, 7. *Nays*: Massachusetts, New Jersey, Pennsylvania, Georgia, 4.

It was then moved and seconded to agree to the proposition as amended, namely:—

"to be ineligible to, and incapable of holding, any office under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term for which they are elected, and for one year thereafter;"

which passed unanimously in the affirmative.

It was moved and seconded to add the following clause to the 4th resolution, namely, "and to be ineligible and incapable of holding any office under a particular state;" which passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Virginia, 3. *Nays*: Connecticut, New York, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to agree to the 5th resolution reported from the committee, namely: —

“*Resolved*, That each branch ought to possess the right of originating acts;”

which passed unanimously in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

WEDNESDAY, June 27, 1787.

It was moved and seconded to postpone the consideration of the 6th resolution reported from the committee, in order to take up the 7th and 8th resolutions.

On the question to postpone, it passed in the affirmative.

It was moved and seconded to agree to the 1st clause of the 7th resolution, namely: —

“*Resolved*, That the right of suffrage in the first branch of the national legislature ought not to be according to the rule established in the Articles of Confederation.”

Before a determination was taken on the clause, the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, June 28, 1787.

It was moved and seconded to amend the 7th resolution reported from the committee, so as to read as follows, namely: —

“*Resolved*, That the right of suffrage in the first branch of the legislature of the United States ought to be in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each state.”

It was moved and seconded to erase the word “not” from the 1st clause of the 7th resolution, so as to read,—

“*Resolved*, That the right of suffrage in the second branch of the legislature of the United States ought to be according to the rule established in the Articles of Confederation.”

The determination of the house on the motion for erasing the word “not” from the 1st clause of the 7th resolution was postponed, at the request of the deputies of the state of New York, till to-morrow.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

FRIDAY, June 29, 1787.

It was moved and seconded to strike the word “not” out of the 1st clause of the 7th resolution reported from the committee.



On the question to strike out, it passed in the negative.

*Yeas*: Connecticut, New York, New Jersey, Delaware, 4. *Nays*: Massachusetts, Pennsylvania, Virginia, North Carolina, Georgia, 6. *Divided*: Maryland, 1.

It was then moved and seconded to agree to the 1st clause of the 7th resolution, as reported from the committee, namely:—

“*Resolved*, That the right of suffrage in the first branch of the legislature of the United States ought not to be according to the rule established in the Articles of Confederation, but according to some equitable ratio of representation.”

On the question to agree, it passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays*: Connecticut, New York, New Jersey, Delaware, 4. *Divided*: Maryland, 1.

It was moved and seconded to postpone the further consideration of the 7th, in order to take up the 8th resolution; which passed in the affirmative.

*Yeas*: Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Massachusetts, Delaware, 2.

It was moved and seconded to amend the 8th resolution, reported from the committee, so as to read as follows, namely:—

“*Resolved*, That in the second branch of the legislature of the United States, each state shall have an equal vote.”

Before the determination of the house was taken on the last motion, the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, June 30, 1787.

The following resolution was moved and seconded, namely:—

“*Resolved*, That the president be requested to write to the supreme executive of the state of New Hampshire, and inform him that the business before the Convention is of such a nature as to require the immediate attendance of the gentlemen appointed by that state to this Convention.”

On the question to agree to this resolution, it passed in the negative.

*Yeas*: New York, New Jersey, 2. *Nays*: Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, 5. *Divided*: Maryland, 1.

It was then moved and seconded to take up the resolution submitted to the consideration of the house yesterday, namely:—

“*Resolved*, That in the second branch of the legislature of the United States, each state will have an equal vote.”

After some time passed in debate, the house voted unanimously to adjourn till Monday next, at 11 o'clock, A. M.

MONDAY, July 2, 1787.

It was moved and seconded to agree to the following resolution, namely:—

“*Resolved*, That in the second branch of the legislature of the United States, each state shall have an equal vote;”

which passed in the negative.

*Yeas*: Connecticut New York, New Jersey, Delaware, Maryland, 5. *Nays*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, 5. *Divided*: Georgia, 1.

It was moved and seconded to appoint a committee, to whom the 8th resolution, and so much of the 7th resolution, reported from the committee of the whole house, as has not been decided upon, should be referred.

On the question to agree to this motion, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: New Jersey, Delaware, 2.

It was moved and seconded that the committee consist of a member from each state. It passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Pennsylvania, 1.

And a committee, by ballot, was appointed, of Mr. Gerry, Mr. Ellsworth, Mr. Yates, Mr. Patterson, Mr. Franklin, Mr. Bedford, Mr. L. Martin, Mr. Mason, Mr. Davie, Mr. Rutledge, and Mr. Baldwin.

And then the house adjourned till Thursday next, at 11 o'clock.

THURSDAY, July 5, 1787.

The Hon. Mr. Gerry reported, from the committee to whom were referred the *eighth* resolution, and such part of the *seventh* resolution as had not already been decided on by the house, that the committee had directed him to submit the following report to the consideration of the house; and the same, being delivered in at the secretary's table, was read once throughout, and then by paragraphs, and is as follows, namely:—

The committee to whom were referred the 8th resolution reported from the committee of the whole house, and so

much of the 7th as hath not been decided on, submit the following report:—

That the subsequent propositions be recommended to the Convention, on condition that both shall be generally adopted.

“1. That, in the first branch of the legislature, each of the states now in the Union be allowed one member for every forty thousand inhabitants of the description reported in the 7th resolution of the committee of the whole house; that each state not containing that number shall be allowed one member; that all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury, but in pursuance of appropriations to be originated by the first branch.

“2. That in the second branch of the legislature, each state shall have an equal vote.”

It was moved and seconded to postpone the consideration of the 1st proposition contained in the report, in order to take up the 2d.

On the question to postpone, it passed in the negative.

*Yeas:* New York, South Carolina, 2. *Nays:* Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8.

It was then moved by Mr. Rutledge, and seconded, to postpone the 1st clause of the report, in order to take up the following, namely:—

“That the suffrages of the several states be regulated and proportioned according to the sums to be paid towards the general revenue by the inhabitants of each state, respectively; that an apportionment of suffrages, according to the ratio aforesaid, shall be made and regulated at the end of \_\_\_\_\_ years from the first meeting of the legislature of the United States, and so from time to time, at the end of every \_\_\_\_\_ years thereafter, but that for the present, and until the period first above mentioned, shall have one suffrage,” &c.\*

And on the question to postpone, it passed in the negative.

\* The two following statements are among the papers of Mr. Brearly, furnished by General Bloomfield. They have, apparently, reference to this resolution.

<i>States.</i>	<i>Number Whites.</i>	<i>Number Blacks.</i>	<i>States.</i>	<i>Number Whites.</i>	<i>Number Blacks.</i>
New Hampshire, . . . . .	82,000	102,000	Delaware, . . . . .	37,000	
Massachusetts Bay, . . . . .	352,000		Maryland, . . . . .	174,000	80,000
Rhode Island, . . . . .	58,000		Virginia, . . . . .	300,000	300,000
Connecticut, . . . . .	202,000		North Carolina, . . . . .	151,000	
New York, . . . . .	238,000		South Carolina, . . . . .	93,000	
New Jersey, . . . . .	138,000	145,000	Georgia, . . . . .	27,000	
Pennsylvania, . . . . .	341,000				

The following quotas of taxation are extracted from the printed journals of the old Congress, September 27, 1785:—

*Yea*: South Carolina, 1. *Nays*: Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 8.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

FRIDAY, July 6, 1787.

It was moved and seconded to refer the 1st clause of the 1st proposition reported from the grand committee to a special committee; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New York, New Jersey, Delaware, 3. *Divided*: Maryland, 1.

It was moved and seconded that the committee consist of five members; which was unanimously agreed to.

And a committee was appointed, by ballot, of Mr. G. Morris, Mr. Gorham, Mr. Randolph, Mr. Rutledge, and Mr. King.

It was moved and seconded to postpone the remainder of the 1st proposition, in order to take up the 2d; which passed in the affirmative.

*Yeas*: New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 8. *Nays*: Massachusetts, Connecticut, North Carolina, 3.

It was moved and seconded to postpone the consideration of the 2d proposition; which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, Virginia, Georgia, 6. *Nays*: Pennsylvania, North Carolina, South Carolina, 3. *Divided*: Massachusetts, New York, 2.

It was moved and seconded to resume the consideration of the 2d clause of the 1st proposition, which had been postponed in order to take up the 2d proposition; which passed in the affirmative.

On the question, Shall the following clause stand as a part of the report? namely, —

“3. That all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn

<i>States.</i>	<i>Quotas of Taxes.</i>	<i>Dele- gates.</i>	<i>States.</i>	<i>Quotas of Taxes.</i>	<i>Dele- gates.</i>
Virginia, . . . . .	512,974	16	New Jersey, . . . . .	166,716	5
Massachusetts Bay, . . . . .	448,854	14	New Hampshire, . . . . .	105,416	3½
Pennsylvania, . . . . .	410,178	12¾	Rhode Island, . . . . .	64,636	2
Maryland, . . . . .	283,034	8¾	Delaware, . . . . .	44,886	1½
Connecticut, . . . . .	264,182	8	Georgia, . . . . .	32,060	1
New York, . . . . .	256,486	8			
North Carolina, . . . . .	218,012	6¾		3,000,000	90
South Carolina, . . . . .	192,366	6			



from the public treasury but in pursuance of appropriations to be originated by the first branch," —

it passed in the affirmative. The votes stood thus : —

*Yeas* : Connecticut, New Jersey, Delaware, Maryland, North Carolina, 5. *Nays* : Pennsylvania, Virginia, South Carolina, 3. *Divided* : Massachusetts, New York, Georgia, 3.

And on a question, moved and seconded, whether the vote so standing was determined in the affirmative, it was decided as follows, that it was : —

*Yeas* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 9. *Nays* : New York, Virginia, 2.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, July 7, 1787.

A letter from W. Rawle, secretary to the Library Company of Philadelphia, addressed to his excellency, the president of the Convention, enclosing a resolve of that company, granting the use of their books to the members of the Convention, being read, — on motion, —

"*Resolved*, That the secretary, by letter, present the thanks of the Convention to the directors of the Library Company, for their polite attention."

It was moved and seconded that the second proposition reported from the grand committee stand part of the report, namely, "that in the second branch of the legislature each state shall have an equal vote ;" which passed in the affirmative.

*Yeas* : Connecticut, New York, New Jersey, Delaware, Maryland, North Carolina, 6. *Nays* : Pennsylvania, Virginia, South Carolina, 3. *Divided* : Massachusetts, Georgia, 2.

It was then moved and seconded to postpone the consideration of the report from the grand committee until the special committee report ; which passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, 6. *Nays* : New York, Virginia, North Carolina, South Carolina, Georgia, 5.

And then the house adjourned till Monday next, at 11 o'clock.

MONDAY, July 9, 1787.

The Hon. Daniel Carroll, Esq., one of the deputies from the state of Maryland, attended, and took his seat.

The Hon. Mr. G. Morris, from the committee to whom was referred the 1st clause of the 1st proposition, reported from the grand committee, informed the house that the com-

mittee were prepared to report. He then read the report in his place; and the same, being delivered in at the secretary's table, was read once throughout, and then by paragraphs; and is as follows, namely:—

The committee, to whom was referred the 1st clause of the 1st proposition reported from the grand committee, do beg leave to report:—

“1. That in the first meeting of the legislature of the United States, the first branch thereof consist of fifty-six members; of which number

New Hampshire shall have 2	Delaware shall have.....1
Massachusetts,.....7	Maryland,.....4
Rhode Island,.....1	Virginia,.....9
Connecticut,.....4	North Carolina,.....5
New York,.....5	South Carolina,.....5
New Jersey,.....3	Georgia,.....2
Pennsylvania,.....8	

“2. But as the present situation of the states may probably alter, as well in point of wealth as in the number of their inhabitants,—that the legislature be authorized from time to time to augment the number of representatives. And in case any of the states hereafter be divided, or any two or more states united, or any new state created within the limits of the United States, the legislature shall possess authority to regulate the number of representatives, in any of the foregoing cases, upon the principles of their wealth and number of inhabitants.”

It was moved and seconded to postpone the consideration of the 1st paragraph of the report, in order to take up the 2d; which passed in the affirmative.

On the question to agree to the 2d paragraph of the report, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 9. *Nays*: New York, New Jersey, 2.

It was moved and seconded to refer the 1st paragraph of the report to a committee of one member from each state; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 9. *Nays*: New York, South Carolina, 2.

And a committee was appointed; by ballot, of the Hon. Mr. King, Mr. Sherman, Mr. Yates, Mr. Brearly, Mr. G. Morris, Mr. Read, Mr. Carroll, Mr. Madison, Mr. Williamson, Mr. Rutledge, and Mr. Houston.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, July 10, 1787.

The Hon. Mr. King, from the grand committee to whom was referred the 1st paragraph of the report of a committee consisting of Mr. G. Morris, Mr. Gorham, Mr. Randolph,

Mr. Ruledge, and Mr. King, informed the house that the committee were prepared to report. He then read the report in his place; and the same, being delivered in at the secretary's table, was again read, and is as follows, namely:—

“That in the original formation of the legislature of the United States, the first branch thereof shall consist of sixty-five members, of which number

New Hampshire shall send 3	Delaware shall send.....1
Massachusetts,.....8	Maryland,.....6
Rhode Island,.....1	Virginia,.....10
Connecticut,.....5	North Carolina,.....5
New York,.....6	South Carolina,.....5
New Jersey,.....4	Georgia,.....3”
Pennsylvania,.....8	

It was moved and seconded to amend the report by striking out the word “three” in the apportionment of representation to New Hampshire, and inserting the word “two;” which passed in the negative.

*Yeas:* South Carolina, Georgia, 2. *Nays:* Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 9.

It was moved and seconded to amend the report by striking out the word “five” in the apportionment of representation to North Carolina, and inserting the word “six;” which passed in the negative.

*Yeas:* North Carolina, South Carolina, Georgia, 3. *Nays:* Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 8.

It was moved and seconded to amend the report by striking out the word “five” in the apportionment of representation to South Carolina, and inserting the word “six;” which passed in the negative.

*Yeas:* Delaware, North Carolina, South Carolina, Georgia, 4. *Nays:* Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, 7.

It was moved and seconded to amend the report by striking out the word “three” in the apportionment of representation to Georgia, and inserting the word “four;” which passed in the negative.

*Yeas:* Virginia, North Carolina, South Carolina, Georgia, 4. *Nays:* Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, 7.

It was moved and seconded to double the number of representatives, in the first branch of the legislature of the United States, apportioned by the report of the grand committee to each state; which passed in the negative.

*Yeas*: Delaware, Virginia, 2. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, North Carolina, South Carolina, Georgia, 9.

On the question to agree to the report of the grand committee, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 9. *Nays*: South Carolina, Georgia, 2.

It was moved and seconded to add the following amendments after the 2d paragraph of the report from the committee consisting of Mr. Morris, Mr. Gorham, Mr. Randolph, Mr. Rutledge, and Mr. King:—

“That, in order to ascertain alterations in the population and wealth of the states, the legislature of the United States be required to cause a proper census and estimate to be taken once in every term of      years.”

It was moved and seconded to postpone the consideration of the last motion, in order to take up the following, namely:—

“That the committee of eleven, to whom was referred the report of the committee of five, on the subject of representation, be requested to furnish the Convention with the principles on which they grounded the report;” which passed in the negative.

*Yea*: South Carolina, 1. *Nays*: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 10.

And then the house adjourned till to-morrow at 11 o'clock A. M.

WEDNESDAY, July 11, 1787

The amendment offered to the 2d paragraph of the report from the committee consisting of Mr. G. Morris, Mr. Gorham, Mr. Randolph, Mr. Rutledge, and Mr. King, being withdrawn, it was moved by Mr. Williamson, and seconded, to substitute the following resolution, namely:—

“*Resolved*, That, in order to ascertain the alterations that may happen in the population and wealth of the several states, a census shall be taken of the free inhabitants of each state, and three fifths of the inhabitants of the other description, on the first year after this form of government shall have been adopted, and afterwards on every term of      years; and the legislature shall alter or augment the representation accordingly.”

It was moved and seconded to strike out the words “three fifths of;” which passed in the negative.

*Yeas*: Delaware, South Carolina, Georgia, 3. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, 7.

It was moved by Mr. Rutledge, and seconded, to postpone



the consideration of the resolution proposed, in order to take up the following, namely:—

"Resolved, That at the end of        years from the meeting of the legislature of the United States, and at the expiration of every        years thereafter, the legislature of the United States be required to apportion the representation of the several states, according to the principles of their wealth and population."

On the question to postpone, it passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, South Carolina, Georgia, 5. *Nays*: Connecticut, New Jersey, Maryland, Virginia, North Carolina, 5.

It was moved and seconded to agree to the 1st clause of the resolution, namely:—

"That, in order to ascertain the alterations that may happen in the population and wealth of the several states, a census shall be taken of the free inhabitants of each state;"

which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, 6. *Nays*: Delaware, Maryland, South Carolina, Georgia, 4.

It was moved and seconded to adjourn. Passed in the negative.

*Yea*: Pennsylvania, 1. *Nays*: Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to agree to the following clause of the resolution, namely:—

"And three fifths of the inhabitants of other descriptions;"

which passed in the negative.

*Yeas*: Connecticut, Virginia, North Carolina, Georgia, 4. *Nays*: Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, 6.

It was moved and seconded to agree to the following clause of the resolution, namely:—

"On the first year after this form of government shall have been adopted;"

which passed in the affirmative.

*Yeas*: Massachusetts, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 7. *Nays*: Connecticut, Maryland, Georgia, 3.

It was moved and seconded to fill up the blank with the word "fifteen;" which passed unanimously in the affirmative.

It was moved and seconded to add, after the words "fifteen years," the words "at least;" which passed in the negative.

*Yeas* : Massachusetts, Virginia, North Carolina, South Carolina, Georgia, 5. *Nays* : Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, 5.

It was moved and seconded to agree to the following clause of the resolution, namely : " And the legislature shall alter or augment the representation accordingly ; " which passed unanimously in the affirmative.

On the question to agree to the resolution as amended, it passed unanimously in the negative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, July 12, 1787.

It was moved and seconded to add the following clause to the last resolution agreed to by the house, respecting the representation in the first branch of the legislature of the United States, namely : —

" *Provided always*, That direct taxation ought to be proportioned according to representation ; "

which passed unanimously in the affirmative.

It was moved and seconded to postpone the consideration of the 1st clause in the report from the first grand committee ; which passed in the affirmative.

It was moved and seconded to add the following amendment to the last clause adopted by the house, namely, —

" and that the rule of contribution, by direct taxation, for the support of the government of the United States, shall be the number of white inhabitants, and three fifths of every other description in the several states, until some other rule, that shall more accurately ascertain the wealth of the several states, can be devised and adopted by the legislature."

The last amendment being withdrawn, it was moved and seconded to substitute the following, namely, —

" and, in order to ascertain the alteration in the representation which may be required, from time to time, by the changes in the relative circumstances of the states, —

" *Resolved*, That a census be taken within two years from the first meeting of the legislature of the United States, and once within the term of every            years afterwards, of all the inhabitants of the United States, in the manner, and according to the ratio, recommended by Congress in their resolution of            , and that the legislature of the United States shall arrange the representation accordingly."

It was moved and seconded so to alter the last clause adopted by the house, that, together with the amendment proposed, the whole should read as follows, namely : —

" *Provided always*, That representation ought to be proportioned according

o direct taxation; and, in order to ascertain the alterations in the direct taxation which may be required, from time to time, by the changes in the relative circumstances of the states, —

“*Resolved*, That a census be taken within two years from the first meeting of the legislature of the United States, and once within the term of every \_\_\_\_\_ years afterwards, of all the inhabitants of the United States, in the manner, and according to the ratio, recommended by Congress in their resolution of April 18, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly.”

It was moved and seconded to strike out the word “two,” and insert the word “six;” which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Maryland, South Carolina, 5. *Nays*: Massachusetts, Virginia, North Carolina, Georgia, 4. *Divided*: Delaware, 1.

It was moved and seconded to fill up the blank with the number “twenty.” Passed in the negative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, 3. *Nays*: Massachusetts, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7.

It was moved and seconded to fill up the blank with the word “ten;” which passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, New Jersey, 2.

It was moved and seconded to strike out the words “in the manner, and according to the ratio, recommended by Congress in their recommendation of April 18, 1783;” and to substitute the following, namely, “of every description and condition;” which passed in the negative.

*Yeas*: South Carolina, Georgia, 2. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 8.

The question being about to be put on the clause as amended, the previous question was called for, and passed in the negative.

*Yea*: New Jersey, 1. *Nays*: Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Divided*: Delaware, 1.

On the question to agree to the clause as amended, namely, —

“*Provided always*, That representation ought to be proportioned according to direct taxation; and, in order to ascertain the alterations in the direct taxation which may be required, from time to time, by the changes in the relative circumstances of the states, —

“*Resolved*, That a census be taken within six years from the first meeting of the legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in

the manner, and according to the ratio, recommended by Congress in their resolution of April 18, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly," —

it passed in the affirmative.

*Yeas*: Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, 6. *Nays*: New Jersey, Delaware, 2. *Divided*: Massachusetts, South Carolina, 2.

And then the house adjourned until to-morrow, at 11 o'clock, A. M.

FRIDAY, July 13, 1787.

It was moved and seconded to postpone the consideration of that clause in the report of the grand committee, which respects the originating money bills in the first branch, in order to take up the following, namely, "that in the second branch of the legislature of the United States, each state shall have an equal vote."

It was moved and seconded to add the following amendment to the last clause agreed to by the house, namely: —

"That, from the first meeting of the legislature of the United States, until a census shall be taken, all moneys to be raised for supplying the public treasury by direct taxation shall be assessed on the inhabitants of the several states according to the number of their representatives, respectively, in the first branch."

It was moved and seconded to postpone the consideration of the amendment; which passed in the negative.

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, 4. *Nays*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6.

On the question to agree to the amendment, it passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, North Carolina, South Carolina, Georgia, 5. *Nays*: Connecticut, New Jersey, Delaware, Maryland, Virginia, 5.

It was moved and seconded to agree to the following amendment, namely: —

"That, from the first meeting of the legislature of the United States until a census shall be taken, all moneys for supplying the public treasury by direct taxation shall be raised from the several states according to the number of their representatives, respectively, in the first branch;"

which passed in the affirmative.

*Yeas*: Massachusetts, Virginia, North Carolina, South Carolina, Georgia, 5. *Nays*: Connecticut, New Jersey, Maryland, 3. *Divided*: Pennsylvania, 1.

It was moved and seconded to reconsider the 2d clause of the report from the committee of five, entered on the



Journal of the 9th instant ; which was unanimously agreed to.

It was moved and seconded to alter the second clause reported from the committee of five, entered on the Journal of the 9th instant, so as to read as follows, namely : —

“ But as the present situation of the states may probably alter in the number of their inhabitants, that the legislature of the United States be authorized, from time to time, to apportion the number of representatives. And in case any of the states shall hereafter be divided, or any two or more states united, or any new states created within the limits of the United States, the legislature of the United States shall possess authority to regulate the number of representatives in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned.”

And on the question to agree to the clause as amended, it passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Divided* : Delaware, 1.

It was moved and seconded to add, after the word “ divided,” the following words, namely, “ or enlarged by addition of territory ;” which passed unanimously in the affirmative.

It was moved and seconded to adjourn. Passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Delaware, Maryland, North Carolina, South Carolina, 6. *Nays* : New Jersey, Pennsylvania, Virginia, Georgia, 4.

And then the house adjourned until to-morrow, at 11 o'clock, A. M.

SATURDAY, July 14, 1787.

It was moved and seconded to agree to the following proposition, namely : —

“ That, to secure the liberties of the states already confederated, the number of representatives, in the first branch, from the states which shall hereafter be established, shall never exceed the representations from such of the thirteen United States as shall accede to this confederation.”

On the question to agree to the proposition, it passed in the negative.

*Yeas* : Massachusetts, Connecticut, Delaware, Maryland, 4. *Nays* : New Jersey, Virginia, North Carolina, South Carolina, Georgia, 5. *Divided*, Pennsylvania, 1.

It was moved and seconded to reconsider the two propositions reported from the grand committee, and agreed by the house to stand part of the report entered on the Journal of the 6th instant.

It was moved by Mr. Pinckney, and seconded, to postpone the 2d clause of the report from the grand committee, entered on the Journals of the 6th instant, in order to take up the following, namely: —

“That the second branch of the legislature shall have thirty-six members, of which number

New Hampshire shall have 2	Delaware shall have . . . . . 1
Massachusetts, . . . . . 4	Maryland, . . . . . 3
Rhode Island, . . . . . 1	Virginia, . . . . . 5
Connecticut, . . . . . 3	North Carolina, . . . . . 3
New York, . . . . . 3	South Carolina, . . . . . 3
New Jersey, . . . . . 2	Georgia, . . . . . 2
Pennsylvania, . . . . . 4	

On the question to postpone, it passed in the negative.

*Yeas*: Pennsylvania, Maryland, Virginia, South Carolina, 4. *Nays*. Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, Georgia, 6.

And then the house adjourned till Monday.

MONDAY, July 16, 1787.

The question being taken on the whole of the report from the grand committee, as amended, it passed in the affirmative, and is as follows, namely: —

“*Resolved*, That, in the original formation of the legislature of the United States, the first branch thereof shall consist of sixty-five members, of which number

New Hampshire shall send 3	Delaware shall send . . . . . 1
Massachusetts, . . . . . 8	Maryland, . . . . . 6
Rhode Island, . . . . . 1	Virginia, . . . . . 10
Connecticut, . . . . . 5	North Carolina, . . . . . 5
New York, . . . . . 6	South Carolina, . . . . . 5
New Jersey, . . . . . 4	Georgia, . . . . . 3
Pennsylvania, . . . . . 8	

“But, as the present situation of the states may probably alter in the number of their inhabitants, the legislature of the United States shall be authorized, from time to time, to apportion the number of representatives. And in case any of the states shall hereafter be divided, or enlarged by addition of territory, or any two or more states united, or any new states created within the limits of the United States, the legislature of the United States shall possess authority to regulate the number of representatives in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned, namely: —

“*Provided always*, That representation ought to be proportioned according to direct taxation. And, in order to ascertain the alteration in the direct taxation which may be required, from time to time, by the changes in the relative circumstances of the states, —

“*Resolved*, That a census be taken within six years of the first meeting of the legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in the manner, and according to the ratio, recommended by Congress, in their resolution of April 18, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly.

“*Resolved*, That all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch.

“*Resolved*, That, in the second branch of the legislature of the United States, each state shall have an equal vote.”

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, North Carolina, 5. *Nays*: Pennsylvania, Virginia, South Carolina, Georgia, 4. *Divided*: Massachusetts, 1.

It was moved and seconded to agree to the 1st clause of the 6th resolution reported from the committee of the whole house, namely:—“That the national legislature ought to possess the legislative rights vested in Congress by the Confederation;” which passed unanimously in the affirmative.

It was moved and seconded to commit the 2d clause of the 6th resolution reported from the committee of the whole house; which passed in the negative.

*Yeas*: Connecticut, Maryland, Virginia, South Carolina, Georgia, 5. *Nays*: Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, 5.

It was moved and seconded to adjourn. Passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Maryland, Virginia, North Carolina 5. *Nays*: Massachusetts, Connecticut, Delaware, South Carolina, Georgia, 5.

The motion to adjourn was repeated. Passed in the affirmative.

*Yeas*: Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, 7. *Nays*: Connecticut, Delaware, 2. *Divided*: Georgia, 1.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, July 17, 1787.

It was moved by Mr. Sherman, and seconded, to postpone the consideration of the 2d clause of the 6th resolution, reported from the committee of the whole house, in order to take up the following:—

“To make laws binding on the people of the United States in all cases which may concern the common interests of the Union; but not to interfere with the government of the individual states, in any matters of internal police, which respect the government of such states only, and wherein the general welfare of the United States is not concerned;”

which passed in the negative.

*Yeas* : Connecticut, Maryland, 2. *Nays* : Massachusetts, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved by Mr. Bedford, and seconded, to alter the 2d clause of the 6th resolution, so as to read as follows, namely, —

“and moreover to legislate, in all cases, for the general interests of the Union; and also in those to which the states are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation;”

which passed in the affirmative.

*Yeas* : Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, 6. *Nays* : Connecticut, Virginia, South Carolina, Georgia, 4.

It was moved and seconded to agree to the 2d clause of the 6th resolution, as thus amended. Passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 8. *Nays* : South Carolina, Georgia, 2.

On the question to agree to the following clause of the 6th resolution, reported from the committee of the whole house, namely, —

“to negative all laws passed by the several states contravening, in the opinion of the national legislature, the articles of union, or any treaties subsisting under the authority of the Union,” —

it passed in the negative.

*Yeas* : Massachusetts, Virginia, North Carolina, 3. *Nays* : Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 7.

It was moved and seconded to agree to the following resolution, namely : —

“*Resolved*, That the legislative acts of the United States, made by virtue and in pursuance of the articles of union, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective states, as far as those acts, or treaties, shall relate to the said states, or their citizens and inhabitants; and that the judiciaries of the several states shall be bound thereby in their decisions, any thing in the respective laws of the individual states to the contrary notwithstanding.”

It passed unanimously in the affirmative.

On the question to agree to the 1st clause of the 9th resolution, reported from the committee of the whole house, namely, “that a national executive be instituted, to consist of a single person,” it passed unanimously in the affirmative.

It was moved and seconded to strike the words “national legislature” out of the 2d clause of the 9th resolution, re-



ported from the committee of the whole house, and to insert the words “the citizens of the United States;” which passed in the negative.

*Yeas*: Pennsylvania, 1. *Nays*: Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to alter the 2d clause of the 9th resolution, reported from the committee of the whole house, so as to read, “to be chosen by electors to be appointed by the several legislatures of the individual states;” which passed in the negative.

*Yeas*: Delaware, Maryland, 2. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to agree to the following clause, namely, “to be chosen by the national legislature;” which passed unanimously in the affirmative.

It was moved and seconded to postpone the consideration of the following clause, “for the term of seven years;” which was unanimously agreed to.

On the question to agree to the following clause, namely, “with power to carry into effect the national laws,” it passed unanimously in the affirmative.

On the question to agree to the following clause, namely, “to appoint to offices in cases not otherwise provided for,” it passed unanimously in the affirmative.

It was moved and seconded to strike out the following words, namely, “to be ineligible a second time;” which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Georgia, 6. *Nays*: Delaware, Virginia, North Carolina, South Carolina, 4.

It was moved and seconded to strike out the words “seven years,” and insert the words “good behavior;” which passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Delaware, Virginia, 4. *Nays*: Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, Georgia, 6.

It was moved and seconded to strike out the words “seven years;” which passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, North Carolina, 4. *Nays*: Connecticut, New Jersey, Maryland, Virginia, South Carolina, Georgia, 6.

It was moved and seconded to reconsider the vote to strike out the words “to be ineligible a second time.”

Passed unanimously (eight states) in the affirmative.

It was moved and seconded to reconsider immediately.

Passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Delaware, Maryland, North Carolina, South Carolina, 6. *Nays* : Pennsylvania, Virginia, 2.

It was moved and seconded to reconsider the clause to-morrow. Passed unanimously in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

WEDNESDAY, July 18, 1787.

It was moved and seconded to postpone the consideration of the following clause in the 9th resolution, reported from the committee of the whole house, namely, "for the term of seven years;" which passed unanimously in the affirmative.

It was moved and seconded to postpone the consideration of the remaining clauses of the 9th and the 10th resolutions, in order to take up the 11th resolution; which passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Delaware, Maryland, 4. *Nays* : Pennsylvania, Virginia, South Carolina, 3. *Divided* : North Carolina, 1.

On the question to agree to the following clause of the 11th resolution, namely, "that a national judiciary be established," it passed unanimously in the affirmative.

On the question to agree to the following clause of the 11th resolution, namely, "to consist of one supreme tribunal," it passed unanimously in the affirmative.

It was moved and seconded to strike out the words "second branch of the national legislature," and to insert the words "national executive," in the 11th resolution; which passed in the negative.

*Yeas* : Massachusetts, Pennsylvania, 2. *Nays* : Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, 6.

It was moved and seconded to alter the 3d clause of the 11th resolution, so as to read as follows, namely, —

"the judges of which shall be nominated and appointed by the executive, by and with the advice and consent of the second branch of the legislature of the United States, and every such nomination shall be made at least            days prior to such appointment."

It passed in the negative.

*Yeas* : Massachusetts, Pennsylvania, Maryland, Virginia, 4. *Nays* : Connecticut, Delaware, North Carolina, South Carolina, 4.

It was moved and seconded to alter the 3d clause of the 11th resolution, so as to read as follows, namely, —

“that the judges shall be nominated by the executive; and such nomination shall become an appointment, if not disagreed to, within days, by two thirds of the second branch of the legislature.”

It was moved and seconded to postpone the consideration of the last amendment; which was unanimously agreed to.

On the question to agree to the following clause of the 11th resolution, namely, “to hold their offices during good behavior,” it passed unanimously in the affirmative.

On the question to agree to the following clause of the 11th resolution, namely, “to receive punctually, at stated times, a fixed compensation for their services,” it passed unanimously in the affirmative.

It was moved and seconded to strike the words “increase or” out of the 11th resolution; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, South Carolina, 6. *Nays*: Virginia, North Carolina, 2.

On the question to agree to the clause as amended, namely, “to receive punctually, at stated times, a fixed compensation for their services, in which no diminution shall be made so as to affect the persons actually in office at the time of such diminution,” it passed unanimously in the affirmative.

On the question to agree to the 12th resolution, namely, —

“That the national legislature be empowered to appoint inferior tribunals,” —

it passed unanimously in the affirmative.

It was moved and seconded to strike the words “impeachments of national officers” out of the 13th resolution, which passed unanimously in the affirmative.

It was moved and seconded to alter the 13th resolution, so as to read as follows, namely: —

“That the jurisdiction of the national judiciary shall extend to cases arising under laws passed by the general legislature, and to such other questions as involve the national peace and harmony;”

which passed unanimously in the affirmative.

On the question to agree to the 14th resolution, namely, —

“*Resolved*, That provision ought to be made for the admission of states, lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole,” —

it passed unanimously in the affirmative.

On the question to agree to the 1st clause of the 15th resolution reported from the committee of the whole house, it passed in the negative.

*Yeas*: Virginia, North Carolina, 2. *Nays*: Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 7.

On the question to agree to the last clause of the 15th resolution, it passed unanimously in the negative.

It was moved and seconded to alter the 16th resolution, so as to read as follows, namely, "that a republican form of government shall be guaranteed to each state; and that each state shall be protected against foreign and domestic violence;" which passed unanimously in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, July 19, 1787.

It was moved and seconded to reconsider the several clauses of the 9th resolution which respect the appointment, duration, and eligibility, of the national executive; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 9. *Nay*: North Carolina, 1.

North Carolina withdrew their negative; and it was unanimously agreed to reconsider immediately.

It was moved by Mr. Ellsworth, and seconded, to agree to the following proposition, namely:—

"To be chosen by electors appointed for that purpose by the legislatures of the states in the following proportion:—

"*One* person from each state whose numbers, according to the ratio fixed in the resolution, shall not exceed 100,000; *two* from each of the others, whose numbers shall not exceed 300,000; and *three* from each of the rest."

On the question to agree to the following clause, namely, "to be chosen by electors appointed for that purpose," it passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 6. *Nays*: North Carolina, South Carolina, Georgia, 3. *Divided*: Massachusetts, 1.

On the question to agree to the following clause, "by the legislatures of the states," it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, Georgia, 8. *Nays*: Virginia, South Carolina, 2.



It was agreed to postpone the consideration of the remainder of the propositions.

It was moved and seconded to agree to the following clause, namely, “for the term of seven years,” which passed in the negative.

*Yeas*: New Jersey, South Carolina, Georgia, 3. *Nays*: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, 5. *Divided*: Massachusetts, North Carolina, 2.

On the question to agree to the following clause, namely, “for the term of six years,” it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay*: Delaware, 1.

On the question to restore the words “to be ineligible a second time,” it passed in the negative.

*Yeas*: North Carolina, South Carolina, 2. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Georgia, 8.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

FRIDAY, July 20, 1787.

It was moved by Mr. Gerry, and seconded, to postpone the consideration of the clause respecting the number of electors, entered on the Journal yesterday, in order to take up the following, namely:—

“*Resolved*, That for the first election of the supreme executive, the proportion of electors shall be as follows, namely:—

New Hampshire, .....	1	Delaware,.....	1
Massachusetts,.....	3	Maryland,.....	2
Rhode Island, .....	1	Virginia,.....	3
Connecticut,.....	2	North Carolina,.....	2
New York, .....	2	South Carolina,.....	2
New Jersey,.....	2	Georgia, .....	1
Pennsylvania,.....	3		

In all, twenty-five electors.”

On the question to postpone, it passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays*: Connecticut, New Jersey, Delaware, Maryland, 4.

It was moved and seconded to refer the last motion to a committee; which passed in the negative.

*Yeas*: New Jersey, Delaware, Maryland, 3. *Nays*: Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7.

It was moved and seconded to add one elector to the states of New Hampshire and Georgia; which passed in the affirmative.

*Yeas* : Connecticut, New Jersey, Pennsylvania, Virginia, South Carolina, Georgia, 6. *Nays* : Massachusetts, Delaware, Maryland, North Carolina, 4.

The last motion having been misunderstood, it was moved and seconded that it be put again.

And on the question to give an additional elector to each of the states of New Hampshire and Georgia, it passed in the negative.

*Yeas* : Connecticut, South Carolina, Georgia, 3. *Nays* : Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7.

On the question to agree to the above resolution, respecting the first election of the supreme executive, it passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, 6. *Nays* : New Jersey, Delaware, Maryland, Georgia, 4.

It was moved and seconded to agree to the following resolution : —

“ *Resolved*, That the electors respectively shall not be members of the national legislature, or officers of the Union, or eligible to the office of supreme magistrate.”

Passed in the affirmative.

It was moved and seconded to agree to the following clause of the 9th resolution reported from the committee of the whole house, namely, “to be removable on impeachment and conviction of malpractice, or neglect of duty.”

It was moved and seconded to postpone the consideration of the last motion ; which passed in the negative.

*Yeas* : Massachusetts, South Carolina, 2. *Nays* : Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8.

It was moved and seconded to agree to the clause ; which passed in the affirmative.

*Yeas* : Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays* : Massachusetts, South Carolina, 2.

It was moved and seconded to agree to the following clause, namely, “to receive a fixed compensation for the devotion of his time to public service ;” which passed unanimously in the affirmative.

It was moved and seconded to agree to the following clause, namely, “to be paid out of the national treasury ;” which passed in the affirmative.

*Yeas* : Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay* : New Jersey, 1.

It was moved and seconded to adjourn. Passed in the affirmative.

*Yeas* : Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 8. *Nays* : Connecticut, North Carolina, 2.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, July 21, 1787.

It was moved and seconded to add the following clause to the resolution respecting the electors of the supreme executive, namely, "who shall be paid out of the national treasury, for the devotion of their time to the public service;" which passed in the affirmative.

It was moved and seconded to add, after the words "national executive," in the 10th resolution, the words "together with the supreme national judiciary;" which passed in the negative.

*Yeas* : Connecticut, Maryland, Virginia, 3. *Nays* : Massachusetts, Delaware, North Carolina, South Carolina, 4. *Divided* : Pennsylvania, Georgia, 2.

It was moved and seconded to agree to the 10th resolution, as reported from the committee of the whole house, namely: —

"*Resolved*, That the national executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by two third parts of each branch of the national legislature;"

which passed unanimously in the affirmative.

On the question to agree to the following amendment of the 3d clause of the 11th resolution, namely, "that the judges shall be nominated by the executive, and such nomination shall become an appointment, if not disagreed to by the second branch of the legislature," it passed in the negative.

*Yeas* : Massachusetts, Pennsylvania, Virginia, 3. *Nays* : Connecticut, Delaware, Maryland, North Carolina, Georgia, 5.

On the question to agree to the following clause of the 11th resolution, as reported from the committee of the whole house, namely, "the judges of which shall be appointed by the second branch of the national legislature," it passed in the affirmative.

*Yeas* : Connecticut, Delaware, Maryland, North Carolina, South Carolina, Georgia, 6. *Nays* : Massachusetts, Pennsylvania, Virginia, 3.

And then the house adjourned till Monday next.

MONDAY, July 23, 1787.

The Hon. John Langdon and Nicholas Gilman, Esqrs. deputies from the state of New Hampshire, attended and took their seats.

The following credentials were produced and read. [See *Credentials.*]

On the question to agree to the 17th resolution, as reported from the committee of the whole house, namely, "that provision ought to be made for the amendment of the articles of union whensoever it shall seem necessary," it passed unanimously in the affirmative.

It was moved and seconded to add, after the word "states," in the 18th resolution, the words "and of the national government," which passed in the affirmative.

On the question to agree to the 18th resolution, as amended, namely, "that the legislative, executive, and judiciary powers within the several states, and of the national government, ought to be bound by oath to support the articles of union," it passed unanimously in the affirmative.

It was moved and seconded to strike the following words out of the 19th resolution, reported from the committee of the whole house, namely, "to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people to consider and decide thereon;" which passed in the negative.

*Yeas* : Connecticut, Delaware, Maryland, 3. *Nays* : New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7.

On the question to agree to the 19th resolution, as reported from the committee of the whole house, namely, —

"*Resolved*, That the amendments which shall be offered to the Confederation by the Convention ought, at a proper time or times after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people to consider and decide thereon," —

it passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay* : Delaware, 1.

It was moved and seconded to agree to the following resolution, namely : —

"*Resolved*, That the representation in the second branch of the legislature of the United States consist of \_\_\_\_\_ members from each state, who shall vote *per capita*."



It was moved and seconded to fill up the blank with the word "three;" which passed in the negative.

*Yea*: Pennsylvania, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to fill up the blank with the word "two;" which was unanimously agreed to.

On the question to agree to the resolution as filled up, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay*: Maryland, 1.

It was moved and seconded to reconsider that clause of the resolution respecting the appointment of the supreme executive; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Delaware, North Carolina, South Carolina, Georgia, 7. *Nays*: Pennsylvania, Maryland, Virginia, 3.

And to-morrow was assigned for the reconsideration.

*Yeas*: New Hampshire, Massachusetts, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, Pennsylvania, 2.

Motion to adjourn. Negatived unanimously.

It was moved and seconded that the proceedings of the Convention for the establishment of a national government, except what respects the supreme executive, be referred to a committee for the purpose of reporting a constitution, conformably to the proceedings aforesaid; which passed unanimously in the affirmative.

On the question that the committee consist of a member from each state, it passed in the negative.

*Yea*: Delaware, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

On the question that the committee consist of seven, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Maryland, South Carolina, 5. *Nays*: Pennsylvania, Delaware, Virginia, North Carolina, Georgia, 5.

On the question that the committee consist of five, it passed unanimously in the affirmative — to-morrow assigned for appointing the committee.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, July 24, 1787.

It was moved and seconded to strike the following words out of the resolution respecting the supreme executive, namely, "by electors appointed for that purpose by the legislature of the states," and to insert the words "by the national legislature;" which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Delaware, North Carolina, South Carolina, Georgia, 7. *Nays*: Connecticut, Pennsylvania, Maryland, Virginia, 4.

It was moved and seconded to strike out the word "six," and to insert the word "fifteen."

It was moved and seconded to postpone the consideration of the resolution respecting the executive; which passed in the negative.

*Yeas*: Connecticut, Pennsylvania, Maryland, Virginia, 4. *Nays*: New Hampshire, Massachusetts, New Jersey, North Carolina, South Carolina, Georgia, 6. *Divided*: Delaware, 1.

It was moved by Mr. Wilson, and seconded, to agree to the following resolution, namely:—

"Resolved, That the supreme executive shall be chosen every years by electors, to be taken by lot from the national legislature; the electors to proceed immediately to the choice of the executive, and not to separate until it be made."

The question of order to be taken on the last motion, it was determined that the motion is in order.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 7. *Nays*: Connecticut, North Carolina, South Carolina, Georgia, 4.

On the question to postpone the consideration of the resolution, it passed unanimously in the affirmative.

The house then proceeded to ballot for the committee of detail, when the Hon. Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr. Ellsworth, and Mr. Wilson, were chosen.

It was moved and seconded to discharge the committee of the whole house from acting on the propositions submitted to the Convention by the Hon. Mr. C. Pinckney, and that the said propositions be referred to the committee to whom the proceedings of the Convention are referred; which passed unanimously in the affirmative.

It was moved and seconded to take the like order on the

propositions submitted to the Convention by the Hon. Mr. Patterson, which passed unanimously in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

WEDNESDAY, July 25, 1787.

It was moved by Mr. Ellsworth, and seconded, to agree to the following amendment to the resolution respecting the election of the supreme executive, namely, —

“except when the magistrate last chosen shall have continued in office the whole term for which he was chosen, and be reëligible; in which case the choice shall be by electors appointed for that purpose by the several legislatures.”

Passed in the negative.

*Yeas* : New Hampshire, Connecticut, Pennsylvania, Maryland, 4.  
*Nays* : Massachusetts, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, 7.

It was moved by Mr. Pinckney, and seconded, to agree to the following amendment of the resolution respecting the supreme executive, namely : —

“*Provided*, That no person shall be capable of holding the said office for more than six years in any term of twelve.”

It was moved and seconded to postpone the consideration of the last amendment; which passed in the negative.

*Yeas* : Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, 5.  
*Nays* : New Hampshire, Massachusetts, Delaware, North Carolina, South Carolina, Georgia, 6.

On the question to agree to the amendment, it passed in the negative.

*Yeas* : New Hampshire, Massachusetts, North Carolina, South Carolina, Georgia, 5.  
*Nays* : Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 6.

It was moved and seconded that the members of the committee be furnished with copies of the proceedings; which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 10.  
*Nay* : South Carolina, 1.

It was moved and seconded that members of the house take copies of the resolutions which have been agreed to. Passed in the negative.

*Yeas* : Connecticut, New Jersey, Delaware, Virginia, North Carolina, 5.  
*Nays* : New Hampshire, Massachusetts, Pennsylvania, Maryland, South Carolina, Georgia, 6.

It was moved and seconded to refer the resolution respecting the executive (except that clause which provides that it consist of a single person) to the committee of detail.

Before determination was taken on the last motion, it was moved and seconded to adjourn. Passed in the affirmative.

*Yeas* : Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays* : New Hampshire, Connecticut, 2.

The house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, July 26, 1787.

It was moved and seconded to amend the 3d clause of the resolution respecting the national executive, so as to read as follows, namely, "for the term of seven years, to be ineligible a second time ;" which passed in the affirmative.

*Yeas* : New Hampshire, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays* : Connecticut, Pennsylvania, Delaware, 3.

On the question to agree to the whole resolution respecting the supreme executive, namely, —

"*Resolved*, That a national executive be instituted —

"To consist of a single person ;

"To be chosen by the national legislature ;

"For the term of seven years ;

"To be ineligible a second time ;

"With power to carry into execution the national laws ;

"To appoint officers not otherwise provided for ;

"To be removable on impeachment and conviction of malpractice or neglect of duty ;

"To receive a fixed compensation for the devotion of his time to public service ;

"To be paid out of the public treasury," —

it passed in the affirmative.

*Yeas* : New Hampshire, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, 6. *Nays* : Pennsylvania, Delaware, Maryland, 3. *Divided* : Virginia, 1.

It was moved and seconded to agree to the following resolution, namely : —

"*Resolved*, That it be an instruction to the committee, to whom were referred the proceedings of the Convention for the establishment of a national government, to receive a clause or clauses, requiring certain qualifications of landed property and citizenship in the United States, for the executive, the judiciary, and the members of both branches of the legislature of the United States ; and for disqualifying all such persons as are



indebted to, or have unsettled accounts with, the United States, from being members of either branch of the national legislature.”

It was moved and seconded to strike out the word “landed.” It passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10. *Nays*: Maryland, 1.

On the question to agree to the clause respecting the qualification as amended, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, Pennsylvania, Delaware; 3.

It was moved and seconded to add the words “and pensioners of the government of the United States,” to the clause of disqualification; which passed in the negative.

*Yeas*: Massachusetts, Maryland, Georgia, 3. *Nays*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, South Carolina, 7. *Divided*: North Carolina, 1.

It was moved and seconded to strike out the following words, namely, “or have unsettled accounts with;” which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, 9. *Nays*: New Jersey, Georgia, 2.

On the question to agree to the clause of disqualification as amended, it passed in the negative.

*Yeas*: North Carolina, Georgia, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, 9.

It was moved and seconded to agree to the following resolution, namely:—

“*Resolved*, That it be an instruction to the committee to whom were referred the proceedings of the Convention for the establishment of a national government, to receive a clause or clauses for preventing the seat of the national government being in the same city or town with the seat of the government of any state, longer than until the necessary public buildings can be erected.”

It was moved and seconded to postpone the consideration of the last resolution.

It was moved and seconded to refer such proceedings of the Convention, as have been agreed on since Monday last, to the committee of detail; which passed unanimously in the affirmative. And then the house, by unanimous vote, *adjourned, till Monday, August 6.*

RESOLUTIONS OF THE CONVENTION,

REFERRED, ON THE TWENTY-THIRD AND TWENTY-SIXTH OF JULY, 1787, TO A COMMITTEE OF DETAIL, [MESSRS RUTLEDGE, RANDOLPH, GORHAM, ELLSWORTH AND WILSON,] FOR THE PURPOSE OF REPORTING A CONSTITUTION.

JOURNALS.

June 2. "I. Resolved, That the government of the United States ought to consist of a supreme legislative, judiciary, and executive.

"II. Resolved, That the legislature consist of two branches.

21. "III. Resolved, That the members of the first branch of the legislature ought to be elected by the people of the several states, for the term of two years; to be paid out of the public treasury; to receive an adequate compensation for their services; to be of the age of twenty-five years at least; to be ineligible to, and incapable of holding, any office under the authority of the United States, (except those peculiarly belonging to the functions of the first branch,) during the term of service of the first branch.

22. 23. "IV. Resolved, That the members of the second branch of the legislature of the United States ought to be chosen by the individual legislatures; to be of the age of thirty years at least; to hold their offices for six years, one third to go out biennially; to receive a compensation for the devotion of their time to the public service; to be ineligible to, and incapable of holding, any office under the authority of the United States, (except those peculiarly belonging to the functions of the second branch,) during the term for which they are elected, and for one year thereafter.

"V. Resolved, That each branch ought to possess the right of originating acts.

Postponed, July 16. 17. "VI. Resolved, That the national legislature ought to possess the legislative rights vested in Congress by the Confederation; and moreover, to legislate, in all cases, for the general interests of the Union, and also in those to which the states are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.

"VII. Resolved, That the legislative acts of the United States, made by virtue, and in pursuance, of the articles of union, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective states, as far as those acts or treaties shall relate to the said states, or their citizens and inhabitants; and that the judiciaries of the several states shall be bound thereby in their decisions, any thing in the respective laws of the individual states to the contrary notwithstanding.

16. "VIII. Resolved, That, in the original formation of the legislature of the United States, the first branch thereof shall consist of sixty-five members, of which number

New Hampshire shall send 3	Delaware shall send..... 1
Massachusetts.....8	Maryland..... 6
Rhode Island.....1	Virginia.....10
Connecticut.....5	North Carolina..... 5
New York.....6	South Carolina..... 5
New Jersey.....4	Georgia..... 3
Pennsylvania..... 8	

But as the present situation of the states may probably alter in the number of their inhabitants, the legislature of the United States

*July* shall be authorized, from time to time, to apportion the number of representatives; and in case any of the states shall hereafter be divided, or enlarged by addition of territory, or any two or more states united, or any new states created within the limits of the United States, the legislature of the United States shall possess authority to regulate the number of representatives, in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned, namely: — *Provided always*, that representation ought to be proportioned according to direct taxation. And in order to ascertain the alteration in the direct taxation which may be required, from time to time, by the changes in the relative circumstances of the states, —

- “IX. *Resolved*, That a census be taken within six years from the first meeting of the legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in the manner and according to the ratio recommended by Congress in their resolution of April 18, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly.
16. “X. *Resolved*, That all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch.
26. “XI. *Resolved*, That, in the second branch of the legislature of the United States, each state shall have an equal vote.
- “XII. *Resolved*, That a national executive be instituted, to consist of a single person, to be chosen by the national legislature, for the term of seven years; to be ineligible a second time; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to public service, to be paid out of the public treasury.
21. “XIII. *Resolved*, That the national executive shall have a right to negative any legislative act, which shall not be afterwards passed unless by two third parts of each branch of the national legislature.
18. “XIV. *Resolved*, That a national judiciary be established, to consist of one supreme tribunal, the judges of which shall be appointed by the second branch of the national legislature; to hold their offices during good behavior; to receive punctually, at stated times, a fixed compensation for their services, in which no diminution shall be made, so as to affect the persons actually in office at the time of such diminution.
18. “XV. *Resolved*, That the national legislature be empowered to appoint inferior tribunals.
18. “XVI. *Resolved*, That the jurisdiction of the national judiciary shall extend to cases arising under laws passed by the general legislature, and to such other questions as involve the national peace and harmony.

July “XVII. *Resolved*, That provision ought to be made for the admission of new states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

“XVIII. *Resolved*, That a republican form of government shall be guaranteed to each state; and that each state shall be protected against foreign and domestic violence.

23. “XIX. *Resolved*, That provision ought to be made for the amendment of the articles of union whensoever it shall seem necessary.

“XX. *Resolved*, That the legislative, executive, and judiciary powers, within the several states, and of the national government, ought to be bound, by oath, to support the articles of union.

“XXI. *Resolved*, That the amendments which shall be offered to the Confederation by the Convention ought, at a proper time or times after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people, to consider and decide thereon.

“XXII. *Resolved*, That the representation in the second branch of the legislature of the United States consist of two members from each state, who shall vote *per capita*.

26. “XXIII. *Resolved*, That it be an instruction to the committee, to whom were referred the proceedings of the Convention for the establishment of a national government, to receive a clause or clauses, requiring certain qualifications of property and citizenship, in the United States, for the executive, the judiciary, and the members of both branches of the legislature of the United States.”

The propositions offered to the Convention, on the 29th of May, by Mr. C. Pinckney, and on the 15th of June, by Mr. Patterson, were referred to the committee, with the above resolutions.

MONDAY, August 6, 1787.

The house met agreeably to adjournment.

The Hon. John Francis Mercer, Esq., one of the deputies from the state of Maryland, attended, and took his seat.

The Hon. Mr. Rutledge, from the committee to whom were referred the proceedings of the Convention for the purpose of reporting a constitution for the establishment of a national government, conformable to the proceedings, informed the house that the committee were prepared to report.

The report was then delivered in at the secretary's table; and, being read once throughout, and copies thereof given to the members, it was moved and seconded to adjourn till Wednesday morning; which passed in the negative.

*Yeas*: Pennsylvania, Maryland, Virginia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, North Carolina, South Carolina, 5.



The house then adjourned till to-morrow morning, at 11 o'clock

DRAFT OF A CONSTITUTION,

REPORTED BY THE COMMITTEE OF FIVE, AUGUST 6, 1787.

[One copy of this printed draft is among the papers deposited by President Washington in the Department of State; another copy is among the papers of Mr. Brearly, furnished by General Bloomfield.]

“WE, the people of the states of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish, the following Constitution for the government of ourselves and our posterity:—

“ART. I. The style of this government shall be, “The United States of America.’

“ART. II. The government shall consist of supreme legislative, executive, and judicial powers.

“ART. III. The legislative power shall be vested in a Congress, to consist of two separate and distinct bodies of men, a House of Representatives and a Senate, each of which shall, in all cases, have a negative on the other. The legislature shall meet on the first Monday in December every year.

“ART. IV. SECT. 1. The members of the House of Representatives shall be chosen every second year, by the people of the several states comprehended within the Union. The qualifications of the electors shall be the same, from time to time, as those of the electors in the several states, of the most numerous branch of their own legislatures.

“SECT. 2. Every member of the House of Representatives shall be of the age of twenty-five years at least; shall have been a citizen in the United States for at least three years before his election; and shall be, at the time of his election, a resident of the state in which he shall be chosen.

“SECT. 3. The House of Representatives shall, at its first formation, and until the number of citizens and inhabitants shall be taken in the manner hereinafter described, consist of sixty-five members, of whom three shall be chosen in New Hampshire, eight in Massachusetts, one in Rhode Island and Providence Plantations, five in Connecticut, six in New York, four in New Jersey, eight in Pennsylvania, one in Delaware, six in Maryland, ten in Virginia, five in North Carolina, five in South Carolina, and three in Georgia.

“SECT. 4. As the proportions of numbers in the different states will alter from time to time; as some of the states may hereafter be divided; as others may be enlarged by addition of territory; as two or more states may be united; as new states will be erected within the limits of the United States,—the legislature shall, in each of these cases, regulate the number of representatives by the number of inhabitants, according to the provisions hereinafter made, at the rate of one for every forty thousand.

“SECT. 5. All bills for raising or appropriating money, and for fixing the salaries of the officers of government, shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public treasury but in pursuance of appropriations that shall originate in the House of Representatives.

“SECT. 6. The House of Representatives shall have the sole power of impeachment. It shall choose its speaker and other officers.

“SECT. 7. Vacancies in the House of Representatives shall be supplied by writs of election from the executive authority of the states in the representation from which they shall happen.

“ART. V. SECT. 1. The Senate of the United States shall be chosen by the legislatures of the several states. Each legislature shall choose two members. Vacancies may be supplied by the executive, until the next meeting of the legislature. Each member shall have one vote.

“SECT. 2. The senators shall be chosen for six years; but immediately after the first election, they shall be divided, by lot, into three classes, as nearly as may be, numbered one, two, and three. The seats of the members of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; of the third class at the expiration of the sixth year;—so that a third part of the members may be chosen every second year.

“SECT. 3. Every member of the Senate shall be of the age of thirty years at least; shall have been a citizen of the United States for at least four years before his election; and shall be, at the time of his election, a resident of the state for which he shall be chosen.

“SECT. 4. The Senate shall choose its own president and other officers.

“ART. VI. SECT. 1. The times and places, and the manner, of holding the elections of the members of each house, shall be prescribed by the legislature of each state; but their provisions concerning them may, at any time, be altered by the legislature of the United States.

“SECT. 2. The legislature of the United States shall have authority to establish such uniform qualifications of the members of each house, with regard to property, as to the said legislature shall seem expedient.

“SECT. 3. In each house a majority of the members shall constitute a quorum to do business; but a smaller number may adjourn from day to day.

“SECT. 4. Each house shall be the judge of the elections, returns, and qualifications, of its own members.

“SECT. 5. Freedom of speech and debate in the legislature shall not be impeached or questioned in any court or place out of the legislature; and the members of each house shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at Congress, and in going to and returning from it.

“SECT. 6. Each house may determine the rules of its proceedings; may punish its members for disorderly behavior; and may expel a member.

“SECT. 7. The House of Representatives, and the Senate when it shall be acting in a legislative capacity, shall keep a journal of their proceedings, and shall, from time to time, publish them; and the yeas and nays of the members of each house, on any question, shall, at the desire of one fifth part of the members present, be entered on the journal.

“SECT. 8. Neither house, without the consent of the other, shall adjourn for more than three days, nor to any other place than that at which the two houses are sitting. But this regulation shall not extend to the Senate when it shall exercise the powers mentioned in the article.

“SECT. 9. The members of each house shall be ineligible to, and incapable of holding, any office under the authority of the United States, during the time for which they shall respectively be elected; and the members of the Senate shall be ineligible to, and incapable of holding, any such office for one year afterwards.

“SECT. 10. The members of each house shall receive a compensation

for their services, to be ascertained and paid by the state in which they shall be chosen.

“SECT. 11. The enacting style of the laws of the United States shall be, *‘Be it enacted, and it is hereby enacted, by the House of Representatives, and by the Senate, of the United States, in Congress assembled.’*”

“SECT. 12. Each house shall possess the right of originating bills, except in the cases before mentioned.

“SECT. 13. Every bill, which shall have passed the House of Representatives, and the Senate, shall, before it become a law, be presented to the President of the United States, for his revision. If, upon such revision, he approve of it, he shall signify his approbation by signing it; but if, upon such revision, it shall appear to him improper for being passed into a law, he shall return it, together with his objections against it, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider the bill; but if, after such reconsideration, two thirds of that house shall, notwithstanding the objections of the President, agree to pass it, it shall, together with his objections, be sent to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of the other house also, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill shall be entered in the journal of each house respectively. If any bill shall not be returned by the President within seven days after it shall have been presented to him, it shall be a law, unless the legislature, by their adjournment, prevent its return; in which case, it shall not be a law.

“ART. VII. SECT. 1. The legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises;

“To regulate commerce with foreign nations, and among the several states;

“To establish a uniform rule of naturalization throughout the United States;

“To coin money;

“To regulate the value of foreign coin;

“To fix the standard of weights and measures;

“To establish post-offices;

“To borrow money and emit bills on the credit of the United States,

“To appoint a treasurer by ballot;

“To constitute tribunals inferior to the Supreme Court;

“To make rules concerning captures on land and water;

“To declare the law and punishment of piracies and felonies committed on the high seas, and the punishment of counterfeiting the coin of the United States, and of offences against the law of nations;

“To subdue a rebellion in any state, on the application of its legislature;

“To make war;

“To raise armies;

“To build and equip fleets;

“To call forth the aid of the militia, in order to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions; and,

“To make all laws that shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested, by this Constitution, in the government of the United States, or in any department or officer thereof.

“SECT. 2. Treason against the United States shall consist only in levying

war against the United States, or any of them, and in adhering to the enemies of the United States, or any of them. The legislature of the United States shall have power to declare the punishment of treason. No person shall be convicted of treason, unless on the testimony of two witnesses. No attainder of treason shall work corruption of blood, nor forfeiture, except during the life of the person attainted.

“SECT. 3. The proportions of direct taxation shall be regulated by the whole number of white and other free citizens and inhabitants, of every sex and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, (except Indians not paying taxes;) which number shall, within six years after the first meeting of the legislature, and within the term of every ten years afterwards, be taken in such manner as the said legislature shall direct.

“SECT. 4. No tax or duty shall be laid by the legislature on articles exported from any state; nor on the migration or importation of such persons as the several states shall think proper to admit; nor shall such migration or importation be prohibited.

“SECT. 5. No capitation tax shall be laid, unless in proportion to the census hereinbefore directed to be taken.

“SECT. 6. No navigation act shall be passed without the assent of two thirds of the members present in each house.

“SECT. 7. The United States shall not grant any title of nobility.

“ART. VIII. The acts of the legislature of the United States made in pursuance of this Constitution, and all treaties made under the authority of the United States, shall be the supreme law of the several states, and of their citizens and inhabitants; and the judges in the several states shall be bound thereby in their decisions; any thing in the constitutions or laws of the several states to the contrary notwithstanding.

“ART. IX. SECT. 1. The Senate of the United States shall have power to make treaties, and appoint ambassadors, and judges of the Supreme Court.

“SECT. 2. In all disputes and controversies now subsisting, or that may hereafter subsist, between two or more states, respecting jurisdiction or territory, the Senate shall possess the following powers: Whenever the legislature, or the executive authority, or the lawful agent of any state in controversy with another, shall, by memorial to the Senate, state the matter in question, and apply for a hearing, notice of such memorial and application shall be given, by order of the Senate, to the legislature, or the executive authority of the other state in controversy. The Senate shall assign a day for the appearance of the parties, by their agents, before that house. The agents shall be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question.

“But if the agents cannot agree, the Senate shall name three persons out of each of the several states; and from the list of such persons each party shall, alternately, strike out one, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names, as the Senate shall direct, shall in their presence be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy; provided a majority of the judges, who shall hear the cause, agree in the determination. If either party shall neglect to attend at the day assigned without showing sufficient reasons for not attending; or, being present



shall refuse to strike, the Senate shall proceed to nominate three persons out of each state, and the clerk of the Senate shall strike in behalf of the party absent or refusing. If any of the parties shall refuse to submit to the authority of such court, or shall not appear to prosecute or defend their claim or cause, the court shall nevertheless proceed to pronounce judgment. The judgment shall be final and conclusive. The proceedings shall be transmitted to the president of the Senate, and shall be lodged among the public records for the security of the parties concerned. Every commissioner shall, before he sit in judgment, take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, 'well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward.'

"SECT. 3. All controversies concerning lands claimed under different grants of two or more states, whose jurisdictions, as they respect such lands, shall have been decided or adjusted subsequent to such grants, or any of them, shall, on application to the Senate, be finally determined, as near as may be, in the same manner as is before prescribed for deciding controversies between different states.

"ART. X. SECT. 1. The executive power of the United States shall be vested in a single person. His style shall be, 'The President of the United States of America;' and his title shall be, 'His Excellency.' He shall be elected by ballot by the legislature. He shall hold his office during the term of seven years, but shall not be elected a second time.

"SECT. 2. He shall, from time to time, give information to the legislature of the state of the Union. He may recommend to their consideration such measures as he shall judge necessary and expedient. He may convene them on extraordinary occasions. In cases of disagreement between the two houses with regard to the time of adjournment, he may adjourn them to such time as he thinks proper. He shall take care that the laws of the United States be duly and faithfully executed. He shall commission all the officers of the United States, and shall appoint officers in all cases not otherwise provided for by this Constitution. He shall receive ambassadors, and may correspond with the supreme executives of the several states. He shall have power to grant reprieves and pardons; but his pardon shall not be pleadable in bar of an impeachment. He shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states. He shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during his continuance in office. Before he shall enter on the duties of his department, he shall take the following oath or affirmation: 'I, \_\_\_\_\_, solemnly swear (or affirm) that I will faithfully execute the office of President of the United States of America.' He shall be removed from his office on impeachment by the House of Representatives, and conviction in the Supreme Court, of treason, bribery, or corruption. In case of his removal as aforesaid, death, resignation, or disability to discharge the powers and duties of his office, the president of the Senate shall exercise those powers and duties until another President of the United States be chosen, or until the disability of the President be removed.

"ART. XI. SECT. I. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as shall, when necessary, from time to time, be constituted by the legislature of the United States.

“SECT. 2. The judges of the Supreme Court, and of the inferior courts shall hold their offices during good behavior. They shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

“SECT. 3. The jurisdiction of the Supreme Court shall extend to all cases arising under laws passed by the legislature of the United States; to all cases affecting ambassadors, other public ministers, and consuls; to the trial of impeachments of officers of the United States; to all cases of admiralty and maritime jurisdiction; to controversies between two or more states, except such as shall regard territory or jurisdiction; between a state and citizens of another state; between citizens of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects. In cases of impeachment, cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be party, this jurisdiction shall be original. In all the other cases before mentioned, it shall be appellate, with such exceptions and under such regulations as the legislature shall make. The legislature may assign any part of the jurisdiction above mentioned, (except the trial of the President of the United States,) in the manner, and under the limitations, which it shall think proper, to such inferior courts as it shall constitute from time to time.

“SECT. 4. The trial of all criminal offences (except in cases of impeachments) shall be in the state where they shall be committed, and shall be by jury.

“SECT. 5. Judgment, in cases of impeachment, shall not extend farther than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States. But the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

“ART. XII. No state shall coin money; nor grant letters of marque and reprisal; nor enter into any treaty, alliance, or confederation; nor grant any title of nobility.

“ART. XIII. No state, without the consent of the legislature of the United States, shall emit bills of credit, or make any thing but specie a tender in payment of debts; lay imposts or duties on imports; nor keep troops or ships of war in time of peace; nor enter into any agreement or compact with another state, or with any foreign power; nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent as not to admit of a delay until the legislature of the United States can be consulted.

“ART. XIV. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

“ART. XV. Any person charged with treason, felony, or high misdemeanor, in any state, who shall flee from justice, and shall be found in any other state, shall, on demand of the executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of the offence.

“ART. XVI. Full faith shall be given in each state to the acts of the legislatures, and to the records and judicial proceedings of the courts and magistrates of every other state.

“ART. XVII. New states, lawfully constituted or established within the limits of the United States, may be admitted by the legislature into this government; but to such admission the consent of two thirds of the members present in each house shall be necessary. If a new state shall arise

within the limits of any of the present states, the consent of the legislature of such states shall be also necessary to its admission. If the admission be consented to, the new states shall be admitted on the same terms with the original states. But the legislature may make conditions with the new states concerning the public debt which shall be then subsisting.

“ART. XVIII. The United States shall guaranty to each state a republican form of government; and shall protect each state against foreign invasions; and, on the application of its legislature, against domestic violence.

“ART. XIX. On the application of the legislature of two thirds of the states in the Union for an amendment of this Constitution, the legislature of the United States shall call a convention for that purpose.

“ART. XX. The members of the legislatures, and the executive and judicial officers of the United States, and of the several states, shall be bound by oath to support this Constitution.

“ART. XXI. The ratification of the conventions of \_\_\_\_\_ states shall be sufficient for organizing this Constitution.

“ART. XXII. This Constitution shall be laid before the United States in Congress assembled, for their approbation; and it is the opinion of this Convention that it should be afterwards submitted to a convention chosen in each state, under the recommendation of its legislature, in order to receive the ratification of such convention

“ART. XXIII. To introduce this government, it is the opinion of this Convention, that each assenting Convention should notify its assent and ratification to the United States in Congress assembled; that Congress, after receiving the assent and ratification of the conventions of \_\_\_\_\_ states, should appoint and publish a day, as early as may be, and appoint a place for commencing proceedings under this Constitution; that, after such publication, the legislatures of the several states should elect members of the Senate, and direct the election of members of the House of Representatives; and that the members of the legislature should meet at the time and place assigned by Congress, and should, as soon as may be, after their meeting, choose the President of the United States, and proceed to execute this Constitution.”

TUESDAY, August 7, 1787.

It was moved and seconded to refer the report of the committee of detail to a committee of the whole; which passed in the affirmative.

*Yeas:* Pennsylvania, Delaware, Maryland, Virginia, South Carolina, 5.  
*Nays:* New Hampshire, Massachusetts, Connecticut, North Carolina, 4.

Delaware being unrepresented during the debate, a question was again taken on referring to a committee of the whole, and passed in the negative.

*Yeas:* Delaware, Maryland, Virginia, 3. *Nays:* New Hampshire, Massachusetts, Connecticut, Pennsylvania, North Carolina, South Carolina, 6.

On the question to agree to the preamble to the Constitution, as reported from the committee to whom were

referred the proceedings of the Convention, it passed unani-  
mously in the affirmative.

On the question to agree to the 1st article, as reported, it  
passed in the affirmative.

On the question to agree to the 2d article, as reported, it  
passed in the affirmative.

It was moved and seconded to alter the 2d clause of the  
3d article, so as to read, “each of which shall, in all cases,  
have a negative on the legislative acts of the other;” which  
passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania,  
North Carolina, 5. *Nays*: Delaware, Maryland, Virginia, South Caro-  
lina, Georgia, 5.

On the question to strike the following clause out of the  
3d article, namely, “each of which shall, in all cases, have  
a negative on the other,” it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, Vir-  
ginia, South Carolina, Georgia, 7. *Nays*: Connecticut, Maryland, North  
Carolina, 3.

It was moved by Mr. Randolph, and seconded, to add the  
following words to the last clause of the 3d article, “un-  
less a different day shall be appointed by law;” which  
passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, Maryland, Virginia,  
North Carolina, South Carolina, Georgia, 8. *Nays*: New Hampshire,  
Connecticut, 2.

It was moved and seconded to strike out the word “De-  
cember,” and insert the word “May,” in the 3d article;  
which passed in the negative.

*Yeas*: South Carolina, Georgia, 2. *Nays*: New Hampshire, Massa-  
chusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia,  
North Carolina, 8.

It was moved and seconded to insert, after the word  
“senate,” in the 3d article, the following, namely, “subject  
to the negative hereafter mentioned;” which passed in the  
negative.

*Yea*: Delaware, 1. *Nays*: New Hampshire, Massachusetts, Connecti-  
cut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina,  
Georgia, 9.

It was moved and seconded to amend the last clause of  
the 3d article, so as to read as follows, namely: —

“The legislature shall meet at least once in every year, and such meet-  
ing shall be on the first Monday in December, unless a different day shall  
be appointed by law;”

which passed in the affirmative.



It was moved and seconded to strike out the last clause in the 1st section of the 4th article; which passed in the negative.

*Yeas*: Delaware, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, 7. *Divided*: Maryland, 1.

It was moved and seconded to adjourn; which passed in the negative.

*Yeas*: Pennsylvania, Delaware, Maryland, Virginia, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, North Carolina, South Carolina, 5.

It was moved and seconded to adjourn till to-morrow morning, at 10 o'clock; which passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, 3. *Nays*: Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 5. *Divided*: South Carolina, 1.

The motion to adjourn renewed. Passed in the affirmative.

*Yeas*: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, 7. *Nays*: New Hampshire, Massachusetts, 2.

The house then adjourned till to-morrow morning, at 11 o'clock.

WEDNESDAY, August 8, 1787.

On the question to agree to the 1st section of the 4th article, as reported, it passed unanimously in the affirmative.

It was moved and seconded to strike out the word "three," and to insert the word "seven," in the 2d section of the 4th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Connecticut, 1.

It was moved and seconded to amend the 2d section of the 4th article by inserting the word "of," instead of "in," after the word "citizen," and the words "an inhabitant," instead of the words "a resident;" which passed in the affirmative.

*Yeas*: New Jersey, Maryland, Virginia, South Carolina, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, North Carolina, Georgia, 7.

It was moved and seconded to postpone Mr. Dickinson's motion, in order to take up Mr. Dickinson's; which passed in the negative.

*Yeas*: Maryland, South Carolina, Georgia, 3. *Nays*: Massachusetts,

New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, 8.

It was moved and seconded to insert the word "three" which passed in the negative.

*Yeas*: South Carolina, Georgia, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 9.

It was moved and seconded to add one year's residence before the election; which passed in the negative.

*Yeas*: New Jersey, North Carolina, South Carolina, Georgia, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, 6. *Divided*: Maryland, 1.

On the question to agree to the 2d clause of the 2d section, it passed unanimously in the affirmative.

On the question to agree to the 2d section of the 4th article, as amended, it passed in the affirmative.

It was moved and seconded to strike out the word "five," and to insert the word "six," before the words "in South Carolina," in the 3d section of the 4th article; which passed in the negative.

*Yeas*: Delaware, North Carolina, South Carolina, Georgia, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, 7.

On the question to agree to the 3d section of the 4th article, as reported, it passed in the affirmative.

It was moved and seconded to alter the latter clause of the 4th article, so as to read as follows, namely, "according to the rule hereinafter made for direct taxation, not exceeding the rate of one for every forty thousand, which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: New Jersey, Delaware, 2.

It was moved and seconded to add the following clause to the 4th section of the 4th article, namely, "provided, that every state shall have at least one representative;" which passed in the affirmative.

It was moved and seconded to insert the word "free," before the word "inhabitants," in the 4th section of the 4th article; which passed in the negative.

*Yea*: New Jersey, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

On the question to agree to the 4th section of the 4th article, as amended, it passed in the affirmative.

It was moved and seconded to strike out the 5th section of the 4th article ; which passed in the affirmative.

*Yeas* : New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 7. *Nays* : New Hampshire, Massachusetts, Connecticut, North Carolina, 4.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

THURSDAY, August 9, 1787.

On the question to agree to the 6th section of the 4th article, as reported, it passed in the affirmative.

On the question to agree to the 7th section of the 4th article, as reported, it passed in the affirmative.

It was moved and seconded to insert the following words in the 3d clause of the 5th article, after the word "executive," "of the state in the representation of which the vacancies shall happen ;" which passed in the affirmative.

It was moved and seconded to strike out the 3d clause of the 1st section of the 5th article ; which passed in the negative.

*Yea* : Pennsylvania, 1. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, South Carolina, Georgia, 8. *Divided* : Maryland, 1.

It was moved and seconded to add the following words to the 3d clause of the 1st section of the 5th article, namely, "unless other provision shall be made by the legislature ;" which passed in the negative.

*Yeas* : Maryland, North Carolina, South Carolina, Georgia, 4. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, 6.

It was moved and seconded to alter the 3d clause in the 1st section of the 5th article so as to read as follows, namely :

"Vacancies happening by refusals to accept, resignations, or otherwise, may be supplied by the legislature of the state in the representation of which such vacancies shall happen, or by the executive thereof, until the next meeting of the legislature ;"

which passed in the affirmative.

On the motion to agree to the three first clauses of the 1st section of the 5th article, it passed in the affirmative.

*Yeas* : New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 8. *Nays* : Massachusetts, North Carolina, 2. *Divided* : South Carolina, 1.

It was moved and seconded to postpone the consideration of the last clause in the 1st section of the 5th article ; which passed in the negative.

*Yeas* : Virginia, North Carolina, 2. *Nays* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 8. *Divided* : New Hampshire, 1.

On the question to agree to the last clause in the 1st section of the 5th article, it passed in the affirmative.

It was moved and seconded to insert the following words after the word "after," in the 2d section of the 5th article, namely, "they shall be assembled in consequence of;" which passed in the affirmative.

On the question to agree to the 2d section of the 5th article, as amended, it passed in the affirmative.

It was moved and seconded to strike out the word "four," and to insert the word "fourteen," in the 3d section of the 5th article ; which passed in the negative.

*Yeas* : New Hampshire, New Jersey, South Carolina, Georgia, 4. *Nays* : Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7.

It was moved and seconded to strike out the word "four," and to insert the word "thirteen," in the 3d section of the 5th article ; which passed in the negative.

*Yeas* : New Hampshire, New Jersey, South Carolina, Georgia, 4. *Nays* : Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7.

It was moved and seconded to strike out the word "four," and to insert the word "ten," in the 3d section of the 5th article ; which passed in the negative.

*Yeas* : New Hampshire, New Jersey, South Carolina, Georgia, 4. *Nays* : Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 7.

It was moved and seconded to strike out the word "four," and to insert the word "nine," in the 3d section of the 5th article ; which passed in the affirmative.

*Yeas* : New Hampshire, New Jersey, Delaware, Virginia, South Carolina, Georgia, 6. *Nays* : Massachusetts, Connecticut, Pennsylvania, Maryland, 4. *Divided* : North Carolina, 1.

It was moved and seconded to amend the 3d section of the 5th article, by inserting the word "of," after the word "citizen;" and the words "an inhabitant," instead of the words "a resident;" which passed in the affirmative.

On the question to agree to the 3d section of the 5th article as amended. it passed in the affirmative.



On the question to agree to the 4th section of the 5th article, as reported, it passed in the affirmative.

It was moved and seconded to strike out the words "each house," and to insert the words "the House of Representatives," in the 1st section of the 6th article; which passed in the negative.

*Yeas:* New Jersey, 1. *Nays:* New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to insert the word "respectively," after the word "state," in the 1st section of the 6th article; which passed in the affirmative.

It was moved and seconded to alter the 2d clause in the 1st section of the 6th article, so as to read as follows, namely:—

"But regulations in each of the foregoing cases may at any time be made or altered by the legislature of the United States;"

which passed in the affirmative.

On the question to agree to the 1st section of the 6th article, as amended, it passed in the affirmative.

And then the house adjourned till to-morrow at 11 o'clock, A. M.

FRIDAY, August 10, 1787.

It was moved and seconded to strike out the 2d section of the 6th article, in order to introduce the following, namely:—

"That the qualifications of the members of the legislature be as follows:—

"The members of the House of Representatives shall possess a clear and unencumbered property of ; the members of the Senate ;"

which passed in the negative.

It was moved and seconded to strike the following words out of the 2d section of the 6th article, namely, "with regard to property;" which passed in the negative.

*Yeas:* Connecticut, New Jersey, Pennsylvania, Georgia, 4. *Nays:* New Hampshire, Massachusetts, Maryland, Virginia, North Carolina, South Carolina, 6.

On the question to agree to the 2d section of the 6th article, as reported, it passed in the negative.

*Yeas:* New Hampshire, Massachusetts, Georgia, 3. *Nays:* Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, 7.

It was moved and seconded to reconsider the 2d section of the 4th article; which passed in the affirmative.

*Yeas*: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 6. *Nays*: New Hampshire, Massachusetts, New Jersey, South Carolina, Georgia, 5.

And Monday next was assigned for the reconsideration.

*Yeas*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, 9. *Nays*: Massachusetts, Georgia, 2.

It was moved by Mr. King, and seconded, to amend the 3d section of the 6th article, to read as follows, namely:—

“Not less than thirty-three members of the House of Representatives, nor less than fourteen members of the Senate, shall constitute a quorum to do business. A smaller number in either house may adjourn from day to day; but the number necessary to form such quorum may be increased by an act of the legislature on the addition of members in either branch;” which passed in the negative.

*Yeas*: Massachusetts, Delaware, 2. *Nays*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

It was moved by Mr. Randolph, and seconded, to add the following amendment to the 3d section of the 6th article, —

“and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide;” which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10  
*Divided*: Pennsylvania, 1.

On the question to agree to the 3d section of the 6th article, as amended, it passed in the affirmative.

On the question to agree to the 4th section of the 6th article, as reported, it passed in the affirmative.

On the question to agree to the 5th section of the 6th article, as reported, it passed in the affirmative.

It was moved and seconded to amend the last clause in the 6th section of the 6th article, by adding the following words: “with the concurrence of two thirds;” which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10  
*Divided*: Pennsylvania, 1.

On the question to agree to the 6th section of the 6th article, as amended, it passed in the affirmative.

It was moved by Mr. Carroll, and seconded, to strike out the words “one fifth part,” and to insert the words “of

any one member present," in the latter clause of the 7th section of the 6th article; which passed in the negative.

*Yeas*: Maryland, Virginia, South Carolina, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, 8.

It was moved and seconded to strike out the words "each house," and to insert the words "the House of Representatives," in the 2d clause of the 7th section of the 6th article; and to add the following words to the 7th section, namely, "and any member of the Senate shall be at liberty to enter his dissent;" which passed in the negative.

It was moved and seconded to strike the following words out of the 7th section of the 6th article, namely, "when it shall be acting in a legislative capacity," and to add the following words to the section, "except such parts thereof as, in their judgment, require secrecy;" which passed in the affirmative.

*Yeas*: Massachusetts, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: Connecticut, New Jersey, Pennsylvania, 3. *Divided*: New Hampshire, 1.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, August 11, 1787.

It was moved and seconded to amend the 1st clause of the 7th section of the 6th article, to read as follows, namely: —

"Each house shall keep a journal of its proceedings, and shall, from time to time, publish the same, except such parts of the proceedings of the Senate, when not acting in its legislative capacity, as may be judged by that house to require secrecy;"

which passed in the negative.

*Yea*: Virginia, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to insert, in the 1st clause of the 7th section of the 6th article, after the word "thereof," the following words, "relative to treaties and military operations;" which passed in the negative.

*Yeas*: Massachusetts, Connecticut, 2. *Nays*: New Hampshire, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

On the question to agree to the 1st clause of the 7th sec-

tion of the 6th article, as reported, it passed unanimously in the affirmative.

It was moved and seconded to add, at the end of the clause, the words "except such parts thereof as in their judgment require secrecy;" which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, Georgia, 6. *Nays*: Pennsylvania, Delaware, Maryland, South Carolina, 4. *Divided*: New Hampshire, 1.

On the question to agree to the last clause of the 7th section of the 6th article, it passed unanimously in the affirmative.

It was moved and seconded to refer the 2d clause of the 7th section of the 6th article to a committee, which passed in the negative.

*Yeas*: Massachusetts, New Jersey, Pennsylvania, Virginia, 4. *Nays*: New Hampshire, Connecticut, Delaware, Maryland, North Carolina, South Carolina, Georgia, 7.

On the question to agree to the 7th section of the 6th article, as amended, it passed in the affirmative.

It was moved and seconded to strike out, in the 8th section of the 6th article, the words, "nor to any other place than that at which the two houses are sitting."

And on the question, Shall the words stand? it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 10. *Nay*: Virginia, 1.

It was moved and seconded to alter the 8th section of the 6th article, to read as follows, namely:—

"The legislature shall, at their first assembling, determine on a place at which their future sessions shall be held. Neither house shall afterwards, during the session of the House of Representatives, without the consent of the other, adjourn for more than three days; nor shall they adjourn to any other place than such as shall have been fixed by law."

Passed in the negative.

It was moved and seconded to prefix the following words to the 8th section of the 6th article, namely, "during the session of the legislature," and to strike out the last clause of the section; which passed in the affirmative.

On the question to agree to the 8th section of the 6th article, as amended, it passed in the affirmative.

It was moved and seconded to reconsider the 5th section of the 4th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania,



Delaware, Virginia, North Carolina, Georgia, 8. *Nays*: New Jersey, Maryland, 2. *Divided*: South Carolina, 1.

And Monday next was assigned for the reconsideration.

And then the house adjourned till Monday next, at 11 o'clock.

MONDAY, August 13, 1787.

It was moved and seconded to strike out the word "seven," and to insert the word "four," in the 2d section of the 4th article.

It was moved and seconded to strike out the word "seven," and to insert the word "nine," in the 2d section of the 4th article.

It was moved by Mr. Hamilton, and seconded, to strike out the words "shall have been a citizen of the United States for at least seven years before his election," and to insert, between the words "an" and "inhabitant," the words "citizen and," in the 2d section of the 4th article; which passed in the negative.

*Yeas*: Connecticut, Pennsylvania, Maryland, Virginia, 4. *Nays*: New Hampshire, Massachusetts, New Jersey, Delaware, North Carolina, South Carolina, Georgia, 7.

On the question to agree to the amendment of "nine," it passed in the negative.

*Yeas*: New Hampshire, South Carolina, Georgia, 3. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, 8.

On the question to agree to the amendment of "four," it passed in the negative.

*Yeas*: Connecticut, Maryland, Virginia, 3. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, 8.

It was moved by Mr. G. Morris, and seconded, to add the following clause to the 2d section of the 4th article, namely:—

"*Provided always*, that the above limitation of seven years shall not be construed to affect the rights of those who are now citizens of the United States; "

which passed in the negative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, 5. *Nays*: New Hampshire, Massachusetts, Delaware, North Carolina, South Carolina, 6.

It was moved and seconded to strike out the word "seven," and to insert the word "five," in the 2d section of the 4th article; which passed in the negative.

*Yeas:* Connecticut, Maryland, Virginia, 3 *Nays:* New Hampshire, Massachusetts, New Jersey, Delaware, North Carolina, South Carolina, Georgia, 7. *Divided:* Pennsylvania, 1.

On the question to agree to the 2d section of the 4th article, as formerly amended, it passed in the affirmative.

On the question, Shall the word "nine," in the 3d section of the 5th article, stand part of the said section? — it passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays:* Connecticut, Pennsylvania, Maryland, 3.

It was moved and seconded to adjourn. Passed in the negative.

*Yeas:* Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, 5. *Nays:* New Jersey, Virginia, North Carolina, Georgia, 5. *Divided:* New Hampshire, 1.

It was moved by Mr. Randolph, and seconded, to amend the 5th section of the 4th article, to read as follows, namely: —

"All bills for raising money for the purposes of revenue, or for appropriating the same, shall originate in the House of Representatives, and shall not be so altered or amended by the Senate as to increase or diminish the sum to be raised, or change the mode of raising, or the objects of its appropriation."

The question was taken on the 1st clause of this amendment, which passed in the negative.

*Yeas:* New Hampshire, Massachusetts, Virginia, North Carolina, 4. *Nays:* Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 7.

On the question to agree to the 5th section of the 4th article, as reported, it passed in the negative.

*Yeas:* New Hampshire, Massachusetts, North Carolina, 3. *Nays:* Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 8.

The question was taken on the last clause of the 5th section of the 4th article; which passed in the negative.

*Yea:* Massachusetts, 1. *Nays:* New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

And then the house adjourned till to-morrow, at 11 o'clock, A. M.

TUESDAY, August 14, 1787.

It was moved and seconded to postpone the consideration of the 9th section of the 6th article, in order to take up the following: —

“The members of each house shall be incapable of holding any office under the United States, for which they, or any other for their benefit, receive any salary, fees, or emoluments of any kind; and the acceptance of such office shall vacate their seats respectively;”

which passed in the negative.

*Yeas*: New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, 5. *Nays*: Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, 5. *Divided*: Georgia, 1.

It was moved and seconded to amend the 9th section of the 6th article by adding the following clause after the words “be elected;” “except in the army or navy thereof; but in that case their seats shall be vacated.”

Before the question was taken on the last amendment, it was moved and seconded to postpone the consideration of the 9th section of the 6th article until the powers to be vested in the Senate are ascertained; which passed unanimously in the affirmative.

It was moved and seconded to strike out the latter clause of the 10th section of the 6th article, and to insert the following, “to be paid out of the treasury of the United States;” which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 9. *Nays*: Massachusetts, South Carolina, 2.

It was moved and seconded to agree to the following amendment to the 10th section of the 6th article,—

“five dollars, or the present value thereof, per diem, during their attendance, and for every thirty miles’ travel, in going to and returning from Congress.”

which passed in the negative.

*Yeas*: Connecticut, Virginia, 2. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to agree to the following amendment to the 10th section of the 6th article, “to be ascertained by law;” which passed in the affirmative.

On the question to agree to the 10th section of the 6th article, as amended, it passed in the affirmative.

And then the house adjourned till to-morrow, at 11 o’clock, A. M.

WEDNESDAY, August 15, 1787.

On the question to agree to the 11th section of the 6th article, as reported, it passed in the affirmative.

It was moved and seconded to strike out the latter part of the 12th section of the 6th article; which passed in the affirmative.

It was moved and seconded to amend the 12th section of the 6th article, as follows: —

“ Each house shall possess the right of originating all bills, except bills for raising money for the purposes of revenue, or for appropriating the same, and for fixing the salaries of the officers of government; which shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as in other cases.”

It was moved and seconded to postpone the consideration of the last amendment; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays*: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, 5.

It was moved and seconded to agree to the following amendment of the 13th section of the 6th article: —

“ Every bill which shall have passed the two houses shall, before it become a law, be severally presented to the President of the United States, and to the judges of the Supreme Court, for the revision of each. If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it; but if, upon such revision, it shall appear improper to either, or both, to be passed into a law, it shall be returned, with the objections against it, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider the bill: but if, after such reconsideration, two thirds of that house, when either the President or a majority of the judges shall object, or three fourths where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other house, by which it shall likewise be reconsidered; and, if approved by two thirds, or three fourths, of the other house, as the case may be, it shall become a law.”

Passed in the negative.

*Yeas*: Delaware, Maryland, Virginia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to postpone the consideration of the 13th section of the 6th article; which passed in the negative.

*Yeas*: Delaware, Maryland, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to strike out the words “two thirds,” and to insert the words “three fourths,” in the 13th section of the 6th article; which passed in the affirmative.

*Yeas*: Connecticut, Delaware, Maryland, Virginia, North Carolina



South Carolina, 6. *Nays*: New Hampshire, Massachusetts, New Jersey, Georgia, 4. *Divided*: Pennsylvania, 1.

It was moved and seconded to amend the 1st clause of the 13th section of the 6th article, as follows: —

“No bill or resolve of the Senate and House of Representatives shall become a law, or have force, until it shall have been presented to the President of the United States for his revision;”

which passed in the negative.

*Yeas*: Massachusetts, Delaware, North Carolina, 3. *Nays*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, 8.

It was moved and seconded to add, at the close of the 13th section of the 6th article, the following clause: —

“No money shall be drawn from the treasury of the United States but in consequence of appropriations by law.”

The motion was withdrawn.

It was moved and seconded to adjourn; which passed in the negative.

*Yeas*: Delaware, Maryland, Virginia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, 7.

It was moved and seconded to strike out the word “seven,” and to insert the words “ten, (Sundays excepted,)” in the 13th section of the 6th article; which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: New Hampshire, Massachusetts, 2.

On the question to agree to the 13th section of the 6th article, as amended, it passed in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock.

THURSDAY, August 16, 1787.

It was moved and seconded to agree to the following, as the 14th section of the 6th article: —

“Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment, and in the cases hereinafter mentioned,) shall be presented to the President for his revision, and, before the same shall have force, shall be approved by him, or, being disapproved by him, shall be repassed by the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill;”

which passed in the affirmative.

It was moved and seconded to insert the following proviso after the 1st clause of the 1st section of the 7th article;

“*provided*, that no tax, duty, or imposition, shall be laid by the legislature of the United States on articles exported from any state.”

It was moved and seconded to postpone the consideration of the proviso ; which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10  
*Nays* : Maryland, 1.

It was moved and seconded to add the words “and post-roads,” after the word “post-offices,” in the 7th clause of the 1st section of the 7th article ; which passed in the affirmative.

*Yeas* : Massachusetts, Delaware, Maryland, Virginia, South Carolina, Georgia, 6. *Nays* : New Hampshire, Connecticut, New Jersey, Pennsylvania, North Carolina, 5.

It was moved and seconded to strike the words “and emit bills” out of the 8th clause of the 1st section of the 7th article ; which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays* : New Jersey, Maryland, 2.

It was moved and seconded to adjourn ; which passed in the negative.

*Yeas* : New Jersey, Maryland, Virginia, North Carolina, 4. *Nays* : New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, South Carolina, Georgia, 7.

Separate questions being taken on the 1st, 2d, 3d, 4th, 5th, 6th, 7th, and 8th clauses of the 1st section of the 7th article, as amended, they passed in the affirmative.

And then the house adjourned till to-morrow, at 11 o'clock.

FRIDAY, August 17, 1787.

It was moved and seconded to insert the word “joint,” before the word “ballot,” in the 9th clause of the 1st section. 7th article ; which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays* : Connecticut, New Jersey, Maryland, 3.

It was moved and seconded to strike out the 9th clause of the 1st section of the 7th article ; which passed in the negative.

*Yeas* : Pennsylvania, Delaware, Maryland, South Carolina, 4. *Nays* : New Hampshire, Massachusetts, Connecticut, Virginia, North Carolina, Georgia, 6.

It was moved and seconded to strike out the words “and punishment,” in the 11th [12th] clause of the 1st section of the 7th article; which passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New Hampshire, Connecticut, Maryland, 3.

It was moved and seconded to alter the 1st part of the 12th clause, 1st section, 7th article, to read as follows:—

“To punish piracies and felonies committed on the high seas;” which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 7. *Nays*: Connecticut, Virginia, North Carolina, 3.

It was moved and seconded to insert the words “define and” between the word “to” and the word “punish,” in the 12th clause; which passed in the affirmative.

It was moved and seconded to amend the 2d part of the 12th clause, as follows:—

“To punish the counterfeiting of the securities and current coin of the United States and offences against the law of nations;”

which passed in the affirmative.

On the question to agree to the 13th clause of the 1st section, 7th article, amended as follows,—

“To subdue a rebellion in any state against the government thereof, on the application of its legislature, or without, when the legislature cannot meet,”

it passed in the negative.

*Yeas*: New Hampshire, Connecticut, Virginia, Georgia, 4. *Nays*: Massachusetts, Delaware, Maryland, North Carolina, South Carolina, 5.

It was moved and seconded to strike out the word “make,” and to insert the word “declare,” in the 14th clause; which passed in the negative.

*Yeas*: Pennsylvania, Delaware, Virginia, North Carolina, 4. *Nays*: New Hampshire, Connecticut, Maryland, South Carolina, Georgia, 5.

It was moved and seconded to strike out the 14th clause; which passed in the negative.

The question being taken to strike out the word “make,” and to insert the word “declare,” in the 14th clause, it passed in the affirmative.

*Yeas*: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nay*: New Hampshire, 1.

It was moved and seconded to add the words “and to

make peace” to the 14th clause ; which passed unanimously in the negative.

Separate questions having been taken on the 9th, 10th, 11th, 12th, and 14th clauses of the 1st section. 7th article. as amended, they passed in the affirmative.

And the house adjourned till to-morrow, at 11 o'clock, A. M.

SATURDAY, *August 18, 1787.*

The following additional powers, proposed to be vested in the legislature of the United States, having been submitted to the consideration of the Convention, it was moved and seconded to refer them to the committee to whom the proceedings of the Convention were referred ; which passed in the affirmative.

The propositions are as follow : —

“ To dispose of the unappropriated lands of the United States.

“ To institute temporary governments for new states arising therein.

“ To regulate affairs with the Indians, as well within as without the limits of the United States.

“ To exercise exclusively legislative authority at the seat of the general government, and over a district around the same, not exceeding square miles, the consent of the legislature of the state or states comprising such district being first obtained.

“ To grant charters of incorporation in cases where the public good may require them, and the authority of a single state may be incompetent.

“ To secure to literary authors their copyrights for a limited time.

“ To establish a university.

“ To encourage, by proper premiums and provisions, the advancement of useful knowledge and discoveries.

“ To authorize the executive to procure and hold, for the use of the United States, landed property for the erection of forts, magazines, and other necessary buildings.

“ To fix and permanently establish the seat of government of the United States, in which they shall possess the exclusive right of soil and jurisdiction.

“ To establish seminaries for the promotion of literature, and the arts and sciences.

“ To grant charters of incorporation.

“ To grant patents for useful inventions.

“ To secure authors exclusive rights for a certain time.

“ To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures.

“ That funds which shall be appropriated for the payment of public creditors shall not, during the time of such appropriation, be diverted or applied to any other purpose; and to prepare a clause, or clauses, for restraining the legislature of the United States from establishing a perpetual revenue.

“ To secure the payment of the public debt.



“To secure all creditors, under the new Constitution, from a violation of the public faith, when pledged by the authority of the legislature.

“To grant letters of marque and reprisal.

“To regulate stages on the post-roads.”

It was moved by Mr. Rutledge, and seconded, that a committee, to consist of a member from each state, be appointed to consider the necessity and expediency of the debts of the several states being assumed by the United States; which passed in the affirmative.

*Yeas:* Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays:* New Hampshire, New Jersey, Delaware, Maryland, 4. *Divided:* Pennsylvania, 1.

And a committee was appointed, by ballot, of the Hon. Mr. Langdon, Mr. King, Mr. Sherman, Mr. Livingston, Mr. Clymer, Mr. Dickinson, Mr. M'Henry, Mr. Mason, Mr. Williamson, Mr. C. C. Pinckney, and Mr. Baldwin.

It was moved and seconded to agree to the following resolution, namely:—

“*Resolved,* That this Convention will meet punctually at 10 o'clock, every morning, (Sundays excepted,) and sit till 4 o'clock in the afternoon, at which time the president shall adjourn the Convention; and that no motion for adjournment be allowed;”

which passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays:* Pennsylvania, Maryland, 2.

It was moved and seconded to insert the words “and support” between the word “raise” and the word “armies,” in the 14th clause, 1st section, 7th article; which passed in the affirmative.

It was moved and seconded to strike out the words “build and equip,” and to insert the words “provide and maintain,” in the 15th clause, 1st section, 7th article; which passed in the affirmative.

It was moved and seconded to insert the following, as a 16th clause, in the 1st section of the 7th article:—

“To make rules for the government and regulation of the land and naval forces;”

which passed in the affirmative.

It was moved and seconded to annex the following proviso to the last clause:—

“*provided,* That, in time of peace, the army shall not consist of more than thousand men;”

which passed in the negative.

It was moved and seconded to insert the following as a clause in the 1st section of the 7th article:—

“To make laws for regulating and disciplining the militia of the several states, reserving to the several states the appointment of their militia officers.”

It was moved and seconded to postpone the last clause, in order to take up the following:—

“To establish a uniformity of exercise and arms for the militia, and rules for their government, when called into service under the authority of the United States; and to establish and regulate a militia in any state where its legislature shall neglect to do it.”

It was moved and seconded to refer the two last motions to a committee; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Connecticut, New Jersey, 2. *Divided*: Maryland, 1.

And they were referred to the committee of eleven.

And then the house adjourned till Monday next, at 11 o'clock, A. M.

MONDAY, August 20, 1787.

It was moved and seconded to refer the following propositions to the committee of five; which passed in the affirmative.

“Each house shall be the judge of its own privileges, and shall have authority to punish, by imprisonment, every person violating the same; or who, in the place where the legislature may be sitting, and during the time of its session, shall threaten any of its members for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault or arrest any witness or other person ordered to attend either of the houses, in his way going or returning; or who shall rescue any person arrested by their order.

“Each branch of the legislature, as well as the supreme executive, shall have authority to require the opinions of the Supreme Judicial Court upon important questions of law, and upon solemn occasions.

“The privileges and benefits of the writ of *habeas corpus* shall be enjoyed in this government in the most expeditious and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding months.

“The liberty of the press shall be inviolably preserved.

“No troops shall be kept up, in time of peace, but by consent of the legislature.

“The military shall always be subordinate to the civil power, and no grants of money shall be made by the legislature for supporting military and forces for more than one year at a time.

“No soldier shall be quartered in any house, in time of peace, without consent of the owner.

“No person holding the office of President of the United States; a judge of their Supreme Court; secretary for the department of foreign

affairs; of finance; of marine; of war; or of \_\_\_\_\_, — shall be capable of holding, at the same time, any other office of trust or emolument under the United States, or an individual state.

“No religious test, or qualification, shall ever be annexed to any oath of office under the authority of the United States.

“The United States shall be forever considered as one body corporate and politic in law, and entitled to all the rights, privileges, and immunities, which to bodies corporate do, or ought to, appertain.

“The legislature of the United States shall have the power of making the great seal, which shall be kept by the President of the United States, or, in his absence, by the president of the Senate, to be used by them as the occasion may require. It shall be called the ‘great seal of the United States,’ and shall be affixed to all laws.

“All commissions and writs shall run in the name of the United States.

“The jurisdiction of the Supreme Court shall be extended to all controversies between the United States and an individual state, or the United States and the citizens of an individual state.

“To assist the President in conducting the public affairs, there shall be a council of state composed of the following officers:—

“1. The chief justice of the Supreme Court, who shall, from time to time, recommend such alterations of, and additions to, the laws of the United States, as may, in his opinion, be necessary to the due administration of justice, and such as may promote useful learning, and inculcate sound morality throughout the Union. He shall be the president of the council, in the absence of the President.

“2. The secretary of domestic affairs, who shall be appointed by the President, and hold his office during pleasure. It shall be his duty to attend to matters of general police, the state of agriculture and manufactures, the opening of roads and navigations, and the facilitating communications through the United States; and he shall, from time to time, recommend such measures and establishments as may tend to promote those objects.

“3. The secretary of commerce and finance, who shall also be appointed by the President during pleasure. It shall be his duty to superintend all matters relating to the public finances; to prepare and report plans of revenue, and for the regulation of expenditures; and also to recommend such things as may, in his judgment, promote the commercial interests of the United States.

“4. The secretary of foreign affairs, who shall also be appointed by the President during pleasure. It shall be his duty to correspond with all foreign ministers, prepare plans of treaties, and consider such as may be transmitted from abroad, and generally to attend to the interests of the United States, in their connections with foreign powers.

“5. The secretary of war, who shall be appointed by the President during pleasure. It shall be his duty to superintend every thing relating to the war department, such as the raising and equipping of troops, the care of military stores, public fortifications, arsenals, and the like; also, in time of war, to prepare and recommend plans of offence and defence.

“6. The secretary of the marine, who shall also be appointed by the President during pleasure. It shall be his duty to superintend every thing relating to the marine department, the public shops, dock-yards, naval stores, and arsenals; also, in time of war, to prepare and recommend plans of offence and defence.

“7 The President shall also appoint a secretary of state, to hold his office

during pleasure; who shall be secretary of the council of state, and also public secretary to the President. It shall be his duty to prepare all public despatches from the President, which he shall countersign.

“The President may, from time to time, submit any matter to the discussion of the council of state; and he may require the written opinions of any one or more of the members; but he shall, in all cases, exercise his own judgment, and either conform to such opinions, or not, as he may think proper. And every officer above mentioned shall be responsible for his opinion on the affairs relating to his particular department.

“Each of the officers above mentioned shall be liable to impeachment, and removal from office, for neglect of duty, malversation, or corruption.

“That the committee be directed to report qualifications for the President of the United States; and a mode for trying the supreme judges in cases of impeachment.”

It was moved and seconded to postpone the consideration of the 17th clause, 1st section, 7th article; which passed in the affirmative.

It was moved and seconded to insert the following clause in the 1st section, 7th article: “to make sumptuary laws;” which passed in the negative.

*Yeas*: Delaware, Maryland, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, 8.

It was moved and seconded to insert the following clause in the 1st section of the 7th article: “to establish all offices;” which passed in the negative.

*Yeas*: Massachusetts, Maryland, 2. *Nays*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9.

On the question to agree to the last clause of the 1st section, 7th article, as reported, it passed in the affirmative.

It was moved and seconded to insert the words “some overt act of,” after the word “in,” in the 2d section, 7th article; and to strike out the word “and” before the words “in adhering,” and to insert the word “or;” which passed in the affirmative.

It was moved and seconded to strike out the words “or any of them,” 2d section, 7th article; which passed in the affirmative.

It was moved and seconded to refer the 2d section of the 7th article to a committee; which passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Maryland, Virginia, Georgia, 5. *Nays*: New Hampshire, Massachusetts, Connecticut, Delaware, South Carolina, 5. *Divided*: North Carolina, 1.

It was moved and seconded to postpone the consideration



of the 2d section, 7th article, in order to take up the following: —

“Whereas it is essential to the preservation of liberty to define, precisely and exclusively, what shall constitute the crime of treason, — it is therefore ordained, declared, and established, that if a man do levy war against the United States, within their territories, or be adherent to the enemies of the United States within the said territories, giving to them aid and comfort within their territories, or elsewhere, and thereof be probably attainted of open deed by the people of his condition, he shall be adjudged guilty of treason.”

On the question to postpone, it passed in the negative.

*Yeas*: New Jersey, Virginia, 2. *Nays*: Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to strike out the words “against the United States,” 1st line, 2d section, 7th article; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 8. *Nays*: Virginia, North Carolina, 2.

It was moved and seconded to insert the words “to the same overt act” after the word “witnesses,” 2d section, 7th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 8. *Nays*: New Jersey, Virginia, North Carolina, 3.

It was moved and seconded to strike the words “some overt act” out of the 1st line, 2d section, 7th article; which passed in the affirmative.

It was moved and seconded to insert the words “sole and exclusive” before the word “power,” in the 2d clause, 2d section, 7th article; which passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, South Carolina, 5. *Nays*: Connecticut, New Jersey, Maryland, Virginia, North Carolina, Georgia, 6.

It was moved and seconded to reinstate the words “against the United States,” in the 1st line, 2d section, 7th article; which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Maryland, Virginia, North Carolina, Georgia, 6. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Delaware, South Carolina, 5.

It was moved and seconded to strike out the words “of the United States,” in the 3d line, 2d section, 7th article which passed in the affirmative.

It was moved and seconded to amend the 1st clause of the 2d section, 7th article, to read: —

“Treason against the United States shall consist only in levying war against them, or in adhering to their enemies;”

which passed in the affirmative.

It was moved and seconded to add the words “giving them aid and comfort,” after the word “enemies,” in the 2d section, 7th article ; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, 8. *Nays*: Connecticut, Delaware, Georgia, 3.

It was moved and seconded to add, after the words “overt act,” the words “or confession in open court,” 2d section, 7th article ; which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 7. *Nays*: Massachusetts, South Carolina, Georgia, 3. *Divided*: North Carolina, 1.

On the question to agree to the 2d section of the 7th article, as amended, it passed in the affirmative.

It was moved and seconded to strike the words “white and other” out of the 3d section, 7th article ; which passed in the affirmative.

It was moved and seconded to strike out the word “six,” and to insert the word “three,” in the 3d section of the 7th article ; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 9. *Nays*: South Carolina, Georgia, 2.

It was moved and seconded to add the following clause to the 3d section of the 7th article : —

“That, from the first meeting of the legislature of the United States, until a census shall be taken, all moneys for supplying the public treasury by direct taxation shall be raised from the several states, according to the number of their representation respectively in the first branch.”

Before a question was taken on the last motion, the house adjourned.

TUESDAY, August 21, 1787.

The Hon. Mr. Livingston, from the committee of eleven, to whom were referred, a proposition respecting the debts of the several states, entered on the Journal of the 18th inst., and a proposition respecting the militia, entered on the Journal of the 18th inst., informed the house that the committee were prepared to report, and had directed him to submit the same to the consideration of the house.

The report was then delivered at the secretary's table, and, being read throughout, is as follows:—

“The legislature of the United States shall have power to fulfil the engagements which have been entered into by Congress, and to discharge, as well the debts of the United States, as the debts incurred by the several states, during the late war, for the common defence and general welfare;

“To make laws for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by the United States.”

It was moved and seconded to postpone the consideration of the above report; which passed in the affirmative.

On the question to agree to the 3d section of the 7th article, as amended, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nays*: Delaware, 1.

It was moved and seconded to add the following clause to the 3d section of the 7th article:—

“And all accounts of supplies furnished, services performed, and moneys advanced by the several states to the United States, or by the United States to the several states, shall be adjusted by the same rule.”

The last motion being withdrawn, it was moved and seconded to add the following clause to the 3d section of the 7th article:—

“By this rule the several quotas of the states shall be determined in settling the expenses of the late war.”

It was moved and seconded to postpone the consideration of the last motion; which passed in the affirmative.

It was moved by Mr. Ellsworth, and seconded, to add the following clause to the 3d section of the 7th article:—

“That, from the first meeting of the legislature of the United States, until a census shall be taken, all moneys for supplying the public treasury by direct taxation shall be raised from the several states, according to the number of their representatives respectively in the first branch.”

It was moved and seconded to annex the following amendment to the last motion, —

“subject to a final liquidation by the foregoing rule, when a census shall have been taken.”

On the question to agree to the amendment, it passed in the affirmative.

On the question to agree to the proposition and amendment, it passed in the negative.

*Yeas*: Massachusetts, South Carolina, 2. *Nays*: New Hampshire,

Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 8. *Divided*: North Carolina, 1.

On the question to take up the amendment offered to the 12th section of the 6th article, entered on the Journal of the 13th instant, and then postponed, it passed in the negative.

*Yeas*: New Hampshire, Connecticut, Maryland, Virginia, North Carolina, 5. *Nays*: Massachusetts, New Jersey, Pennsylvania, Delaware, South Carolina, Georgia, 6.

It was moved by Mr. Martin, and seconded, to add the following clause to the 3d section, 7th article: —

“ And whenever the legislature of the United States shall find it necessary that revenue should be raised by direct taxation, having apportioned the same according to the above rule on the several states, requisitions shall be made of the respective states to pay into the Continental treasury their respective quotas within a time in the said requisition specified; and in case of any of the states failing to comply with such requisitions, then, and then only, to devise and pass acts directing the mode and authorizing the collection of the same; ”

which passed in the negative.

*Yea*: New Jersey, 1. *Nays*: Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 7. *Divided*: Maryland, 1.

It was moved and seconded to insert the following clause after the word “ duty,” in the 1st line, 4th section, 7th article, “ for the purpose of revenue; ” which passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Delaware, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to amend the 1st clause of the 4th section, 7th article, by inserting the following words. “ unless by consent of two thirds of the legislature; ” which passed in the negative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, 5. *Nays*: Connecticut, Maryland, Virginia, North Carolina, South Carolina, Georgia, 6.

On the question to agree to the 1st clause of the 4th section of the 7th article, as reported, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New Hampshire, New Jersey, Pennsylvania, Delaware, 4.

It was moved and seconded to insert the word “ free ” before the word “ persons,” in the 4th section of the 7th article.



Before the question was taken on the last motion, the house adjourned.

WEDNESDAY, August 22, 1787.

The motion made yesterday to insert the word “free” before the word “persons,” in the 4th section of the 7th article, being withdrawn, it was moved and seconded to commit the two remaining clauses of the 4th section, and the 5th section of the 7th article; which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New Hampshire, Pennsylvania, Delaware, 3.

It was moved and seconded to commit the 6th section of the 7th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Connecticut, New Jersey, 2.

And a committee (of a member from each state) was appointed by ballot, of the Hon. Mr. Langdon, Mr. King, Mr. Johnston, Mr. Livingston, Mr. Clymer, Mr. Dickinson, Mr. L. Martin, Mr. Madison, Mr. Williamson, Mr. C. C. Pinckney, and Mr. Baldwin, to whom the clauses of the 4th, 5th, and 6th sections were referred.

The Hon. Mr. Rutledge, from the committee to whom sundry propositions were referred, on the 18th and 20th instant, informed the house that the committee were prepared to report.

He then read the report in his place; and the same, being delivered in at the secretary's table, was again read throughout, and is as follows:—

“The committee report, that, in their opinion, the following additions should be made to the report now before the Convention, namely:—

“At the end of the 1st clause of the 1st section of the 7th article, add, ‘for payment of the debts and necessary expenses of the United States, provided, that no law for raising any branch of revenue, except what may be specially appropriated for the payment of interest on debts or loans, shall continue in force for more than            years.’

“At the end of the 2d clause, 2d section, 7th article, add, ‘and with Indians, within the limits of any state, not subject to the laws thereof.’

“At the end of the 16th clause of the 2d section, 7th article, add, ‘and to provide, as may become necessary, from time to time, for the well managing and securing the common property and general interest of the United States, in such manner as shall not interfere with the governments of individual states, in matters which respect only their internal police, or for which their individual authorities may be competent.’

“At the end of the 1st section, 10th article, add, ‘he shall be of the

age of thirty-five years, and a citizen of the United States, and shall have been an inhabitant thereof for twenty-one years.'

"After the 2d section of the 10th article, insert the following as a 3d section:—

"The President of the United States shall have a privy council, which shall consist of the president of the Senate, the speaker of the House of Representatives, the chief justice of the Supreme Court, and the principal officer in the respective departments of foreign affairs, domestic affairs, war, marine, and finance, (as such departments of office shall from time to time be established,) whose duty it shall be to advise him in matters respecting the execution of his office, which he shall think proper to lay before them; but their advice shall not conclude him, nor affect his responsibility for the measures which he shall adopt.'

"At the end of the 2d section of the 11th article, add, 'the judges of the Supreme Court shall be triable by the Senate, on impeachment by the House of Representatives.'

"Between the 4th and 5th lines of the 3d section of the 11th article, after the word 'controversies,' insert 'between the United States and an individual state, or the United States and an individual person.'"

It was moved and seconded to rescind the orders of the house respecting the hours of meeting and adjournment; which passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Delaware, Maryland, 4. *Nays*: New Hampshire, Connecticut, New Jersey, Virginia, North Carolina, South Carolina, Georgia, 7.

It was moved and seconded to insert the following clause after the 2d section of the 7th article:—

"The legislature shall pass no bill of attainder, nor any *ex post facto* laws;"

which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Delaware, Maryland, Virginia, South Carolina, Georgia, 7. *Nays*: Connecticut, New Jersey, Pennsylvania, 3. *Divided*: North Carolina, 1.

It was moved and seconded to take up the report of the committee of five.

It was moved and seconded to postpone the consideration of the report, in order that the members may furnish themselves with copies of the report; which passed in the affirmative.

*Yeas*: Massachusetts, New Jersey, Maryland, Virginia, North Carolina, Georgia, 6. *Nays*: New Hampshire, Connecticut, Pennsylvania, Delaware, South Carolina, 5.

It was moved and seconded to take up the report of the committee of eleven, entered on the Journal of the 21st instant; which passed in the affirmative.

It was moved by Mr. Morris, and seconded, to amend the 1st clause of the report, to read as follows:—

“The legislature shall fulfil the engagements and discharge the debts of the United States.”

It was moved and seconded to alter the amendment by striking out the words “discharge the debts,” and inserting the words “liquidate the claims;” which passed in the negative.

On the question to agree to the clause as amended, namely,—

“The legislature shall fulfil the engagements and discharge the debts of the United States,”—

passed unanimously in the affirmative.

It was moved and seconded to strike the following words out of the 2d clause of the report:—

“and the authority of training the militia, according to the discipline prescribed by the United States.”

Before the question was taken on the last motion, the house adjourned.

THURSDAY, August 23, 1787.

It was moved and seconded to postpone the consideration of the 2d clause of the report of the committee of eleven, in order to take up the following:—

“To establish a uniform and general system of discipline for the militia of these states, and to make laws for organizing, arming, disciplining, and governing, such part of them as may be employed in the service of the United States, — reserving to the states, respectively, the appointment of the officers, and all authority over the militia not herein given to the general government.”

On the question to postpone, it passed in the negative.

*Yeas*: New Jersey, Maryland, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 8.

It was moved by Mr. Ellsworth, and seconded, to postpone the consideration of the 2d clause of the report of the committee of eleven, in order to take up the following:—

“To establish a uniformity of arms, exercise, and organization for the militia, and to provide for the government of them when called into the service of the United States.”

On the question to postpone, it passed in the negative

*Yea*: Connecticut, 1. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to recommit the 2d clause of the report of the committee of eleven; which passed in the negative.

On the question to agree to the 1st part of the 2d clause of the report, namely,—

“To make laws for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States,”—

it passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays* Connecticut, Maryland, 2.

It was moved and seconded to amend the next part of the 2d clause of the report, to read, —

“reserving to the states, respectively, the appointment of the officers under the rank of general officers.”

It passed in the negative.

*Yeas* : New Hampshire, South Carolina, 2. *Nays* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 9.

On the question to agree to the following part of the 2d clause of the report, namely, —

“reserving to the states, respectively, the appointment of the officers,” —

it passed in the affirmative.

On the question to agree to the following part of the 2d clause of the report, namely, —

“and the authority of training the militia according to the discipline prescribed by the United States,” —

it passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, North Carolina, 7. *Nays* : Delaware, Virginia, South Carolina, Georgia, 4.

It was moved and seconded to agree to the 7th section of the 7th article, as reported ; which passed unanimously in the affirmative.

It was moved and seconded to insert the following clause after the 7th section of the 7th article : —

“No person, holding any office of profit or trust under the United States, shall, without the consent of the Legislature, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.”

Passed in the affirmative.

It was moved and seconded to amend the 8th article, to read as follows : —

“This Constitution, and the laws of the United States made in pursuance thereof, and all treaties made under the authority of the United States, shall be the supreme law of the several states, and of their citizens and inhabitants ; and the judges in the several states shall be bound thereby in their decisions, any thing in the constitutions or laws of the several states to the contrary notwithstanding ;”

which passed in the affirmative.



On the question to agree to the 8th article as amended, it passed in the affirmative.

It was moved and seconded to strike the following words out of the 18th clause of the 1st section, 7th article: "enforce treaties;" which passed in the affirmative.

It was moved and seconded to alter the 1st part of the 18th clause of the 1st section, 7th article, to read:—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;"

which passed in the affirmative.

On the question to agree to the 18th clause of the 1st section, 7th article, as amended, it passed in the affirmative.

It was moved and seconded to agree to the following proposition, as an additional power to be vested in the legislature of the United States:—

"To negative all laws, passed by the several states, interfering, in the opinion of the legislature, with the general interests and harmony of the Union; provided, that two thirds of the members of each house assent to the same."

It was moved and seconded to commit the proposition; which passed in the negative.

*Yeas*: New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, 5. *Nays*: Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, 6.

The proposition was then withdrawn.

It was moved and seconded to amend the 1st section of the 7th article, to read:—

"The legislature shall fulfil the engagements, and discharge the debts, of the United States, and shall have the power to lay and collect taxes, duties, imposts, and excises;"

which passed in the affirmative.

It was moved by Mr. Morris, and seconded, to amend the 1st clause of the 1st section, 9th article, to read:—

"The Senate shall have power to treat with foreign nations; but no treaty shall be binding on the United States which is not ratified by a law."

It was moved and seconded to postpone the consideration of the amendment; which passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 5. *Nays*: Massachusetts, Connecticut, North Carolina, South Carolina, Georgia, 5.

On the question to agree to the amendment, it passed in the negative.

*Yea*: Pennsylvania, 1. *Nays*: Massachusetts, Connecticut, New Jer-

sey, Delaware, Maryland, Virginia, South Carolina, Georgia, 8. *Divided*: North Carolina, 1.

It was moved and seconded to postpone the consideration of the 1st clause of the 1st section, 9th article; which passed in the affirmative.

It was moved and seconded to insert the words "and other public ministers" after the word "ambassadors," in the 1st section, 9th article; which passed in the affirmative.

Separate questions being taken on postponing the several clauses of the 1st section, 9th article; passed in the affirmative.

It was moved and seconded to take up the 1st section of the 9th article, in order to its being committed; which passed in the affirmative.

And it was referred to the committee of five.

And then the house adjourned.

FRIDAY, August 24, 1787.

The Hon. Mr. Livingston, from the committee of eleven, to whom were referred the two remaining clauses of the 4th section, and the 5th and 6th sections of the 7th article, informed the house that the committee were prepared to report.

The report was then delivered in at the secretary's table, was once read, and is as follows:—

"Strike out so much of the 4th section of the 7th article as was referred to the committee, and insert, 'The migration or importation of such persons as the several states now existing shall think proper to admit shall not be prohibited by the legislature prior to the year 1800; but a tax or duty may be imposed on such migration or importation, at a rate not exceeding the average of the duties laid on imposts.'"

The 5th section to remain as in the report. The 6th section to be stricken out.

It was moved and seconded to reconsider the 1st clause, 1st section, 7th article; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Delaware, Virginia, South Carolina, Georgia, 7. *Nays*: New Hampshire, Maryland, 2.

And to-morrow was assigned for the reconsideration.

It was moved and seconded to postpone the consideration of the 2d and 3d sections, 9th article; which passed in the negative.

*Yeas*: New Hampshire, North Carolina, Georgia, 3. *Nays*: Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, South Carolina, 7.

It was moved and seconded to strike out the 2d and 3d sections of the 9th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, South Carolina, 8. *Nays*: North Carolina, Georgia, 2.

Separate questions being taken on the 1st, 2d, and 3d clauses of the 1st section, 10th article, as reported, they passed in the affirmative.

It was moved and seconded to strike out the word "legislature," and to insert the word "people," in the 1st section, 10th article; which passed in the negative.

*Yeas*: Pennsylvania, Delaware, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to insert the word "joint" before the word "ballot," in the 1st section of the 10th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 7. *Nays*: Connecticut, New Jersey, Maryland, Georgia, 4.

It was moved and seconded to add, after the word "legislature," in the 1st section, 10th article, the words "each state having one vote;" which passed in the negative.

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, Georgia, 5. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, 6.

It was moved and seconded to insert, after the word "legislature," in the 1st section of the 10th article, the words "to which election a majority of the votes of the members present shall be required;" which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: New Jersey, 1.

On the question to agree to the following clause, —  
"and in case the numbers for the two highest in votes should be equal, then the president of the Senate shall have an additional casting voice," — it passed in the negative.

It was moved and seconded to agree to the following amendment to the 1st section of the 10th article: "shall be chosen by electors to be chosen by the people of the several states;" which passed in the negative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Delaware, Virginia,

5. *Nays*: New Hampshire, Massachusetts, Maryland, North Carolina, South Carolina, Georgia, 6.

It was moved and seconded to postpone the consideration of the two last clauses of the 1st section, 10th article which passed in the negative.

It was moved and seconded to refer the two last clauses of the 1st section of the 10th article to a committee of a member from each state; which passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 5  
*Nays*: New Hampshire, Massachusetts, North Carolina, South Carolina, Georgia, 5. *Divided*: Connecticut, 1.

On the question to agree to the following clause, "shall be chosen by electors," it passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Delaware, Virginia, 4. *Nays*: New Hampshire, North Carolina, South Carolina, Georgia, 4. *Divided*: Connecticut, Maryland, 2.

The consideration of the remaining clauses of the 1st section, 10th article, was postponed till to-morrow, on the request of the deputies of the state of New Jersey.

On the question to transpose the word "information," and to insert it after the word "legislature," in the 1st clause of the 2d section, 10th article, it passed in the affirmative.

It was moved and seconded to strike out the words "he may," and to insert the word "and" before the word "recommend," in the 2d clause of the 2d section, 10th article; which passed in the affirmative.

It was moved and seconded to insert the word "and" after the word "occasions," in the 2d section, 10th article; which passed in the affirmative.

It was moved and seconded to insert the word "shall" before the words "think proper," 2d section, 10th article; which passed in the affirmative.

It was moved and seconded to strike out the word "officers," and to insert the words "to offices," after the word "appoint," in the 2d section of the 10th article; which passed in the affirmative.

It was moved and seconded to insert the words "or by law," after the word "Constitution," in the 2d section of the 10th article; which passed in the negative.

*Yea*: Connecticut, 1. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 9.

It was moved by Mr. Dickinson, and seconded, to strike out the words, —



“and shall appoint to offices in all cases not otherwise provided for in this Constitution,”—

and to insert the following :

“and shall appoint to all offices established by this Constitution, except in cases herein otherwise provided for, and to all offices which may hereafter be created according to law ;

which passed in the affirmative.

*Yeas* : Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Georgia, 6. *Nays* : New Hampshire, Massachusetts, Delaware, South Carolina, 4.

It was moved and seconded to add the following clause to the last amendment :—

“except where, by law, the appointment shall be vested in the executives of the several states ;

which passed in the negative.

It was moved and seconded to agree to the following order :—

“That the order respecting the adjournment at 4 be repealed, and that in future the house assemble at 10, and adjourn at 3 ;”

which passed unanimously in the affirmative. The house then adjourned.

SATURDAY, August 25, 1787.

It was moved by Mr. Randolph, and seconded, to postpone the 1st clause of the 1st section, 7th article, in order to take up the following amendment :—

“All debts contracted, and engagements entered into, by or under the authority of Congress, shall be as valid against the United States under this Constitution as under the Confederation ;”

which passed in the affirmative.

On the question to agree to the amendment, it passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay* : Pennsylvania, 1.

It was moved and seconded to add the following clause to the 1st clause of the 1st section, 7th article :—

“for the payment of said debts, and for the defraying the expenses that shall be incurred for the common defence and general welfare ;”

which passed in the negative.

*Yea* : Connecticut, 1. *Nays* : New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to amend the report of the

committee of eleven, entered on the Journal of the 24th instant, as follows: to strike out the words “the year eighteen hundred,” and to insert the words “the year eighteen hundred and eight;” which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, Georgia, 7. *Nays*: New Jersey, Pennsylvania, Delaware, Virginia, 4.

It was moved and seconded to amend the 1st clause of the report, to read, —

“The importation of slaves into such of the states as shall permit the same shall not be prohibited by the legislature of the United States until the year 1808;”

which passed in the negative.

*Yeas*: Connecticut, Virginia, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Delaware, North Carolina, South Carolina, 6. *Divided*: Maryland, 1.

On the question to agree to the 1st part of the report as amended, namely, —

“The migration or importation of such persons as the several states now existing shall think proper to admit shall not be prohibited by the legislature prior to the year 1808,” —

it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina, Georgia, 7. *Nays*: New Jersey, Pennsylvania, Delaware, Virginia, 4.

It was moved and seconded to strike out the words “average of the duties laid on imports,” and to insert the words “common impost on articles not enumerated;” which passed in the affirmative.

It was moved and seconded to amend the 2d clause of the report, to read, “but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person;” which passed in the affirmative.

On the question to agree to the 2d clause of the report, as amended, it passed in the affirmative.

On the question to postpone the further consideration of the report, it passed in the affirmative.

It was moved and seconded to amend the 8th article, to read, —

“This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the several states, and of their citizens and inhabitants; and the judges in the several states shall be bound thereby in their decisions, any thing in the

constitutions or laws of the several states to the contrary notwithstanding;”

which passed in the affirmative.

It was moved and seconded to agree to the following propositions :—

“ The legislature of the United States shall not oblige vessels belonging to the citizens thereof, or to foreigners, to enter or pay duties or imposts in any other state than in that to which they may be bound ; or to clear out in any other than the state in which their cargoes may be laden on board ; nor shall any privilege or immunity be granted to any vessels, on entering, clearing out, or paying duties or imposts, in one state in preference to another.

“ Should it be judged expedient, by the legislature of the United States, that one or more ports for collecting duties or imposts, other than those ports of entrance and clearance already established by the respective states, should be established, the legislature of the United States shall signify the same to the executive of the respective states, ascertaining the number of such ports judged necessary, to be laid by the said executives before the legislatures of the states at their next session ; and the legislature of the United States shall not have the power of fixing or establishing the particular ports for collecting duties or imposts in any state, except the legislature of such state shall neglect to fix and establish the same during their first session to be held after such notification by the legislature of the United States to the executive of such state.

“ All duties, imposts, and excises, prohibitions or restraints, laid or made by the legislature of the United States, shall be uniform and equal throughout the United States.”

It was moved and seconded to refer the above propositions to a committee of a member from each state ; which passed in the affirmative.

And a committee was appointed, by ballot, of the Hon. Mr. Langdon, Mr. Gorham, Mr. Sherman, Mr. Dayton, Mr. Fitzsimons, Mr. Read, Mr. Carroll, Mr. Mason, Mr. Williamson, Mr. Butler, and Mr. Few.

It was moved and seconded to add the words “ and other public ministers ” after the word “ ambassadors,” 2d section, 10th article ; which passed unanimously in the affirmative.

It was moved and seconded to strike the words, “ and may correspond with the supreme executives of the several states,” out of the 2d section, 10th article ; which passed in the affirmative.

*Yeas :* New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays :* Maryland, 1.

It was moved and seconded to insert the words “ except in cases of impeachment ” after the word “ pardons,” 2d section, 10th article ; which passed in the affirmative.

On the question to agree to the following clause, “but his pardon shall not be pleadable in bar,” it passed in the negative.

*Yeas*: New Hampshire, Maryland, North Carolina, South Carolina, 4  
*Nays*: Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, Georgia, 6.

The house adjourned.

MONDAY, August 27, 1787

It was moved and seconded to insert the words “after conviction,” after the words “reprieves and pardons,” 2d section, 10th article. [Motion withdrawn.]

It was moved and seconded to amend the clause giving the command of the militia to the executive, to read, —  
“and of the militia of the several states when called into the actual service of the United States;”  
which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, Georgia, 6. *Nays*: Delaware, South Carolina, 2.

It was moved and seconded to postpone the consideration of the following clause, 2d section, 10th article: —

“He shall be removed from his office, on impeachment by the House of Representatives, and conviction in the Supreme Court, of treason, bribery, or corruption;”

which passed in the affirmative.

It was moved and seconded to postpone the last clause of the 2d section, 10th article; which passed in the affirmative.

It was moved and seconded to add the following clause to the oath of office to be taken by the supreme executive: —

“and will, to the best of my judgment and power, preserve, protect, and defend, the Constitution of the United States;”

which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, 7. *Nay*: Delaware, 1.

It was moved and seconded to insert the words “both in law and equity” after the words “United States,” in 1st line, 1st section, 11th article; which passed in the affirmative.

On the question to agree to the 1st section, 11th article, as amended, it passed in the affirmative.

It was moved and seconded to add the following clause after the word “behavior,” 2d section, 11th article: —

“provided that they may be removed, by the executive, on application by the Senate and House of Representatives;”

which passed in the negative.

*Yea*: Connecticut, 1. *Nays*: New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 7.



On the question to agree to the second section of the 11th article, as reported, it passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, Pennsylvania, Virginia, South Carolina, Georgia, 6. *Nays*: Delaware, Maryland, 2.

It was moved and seconded to insert the words "increased or" before the word "diminished," in the 2d section, 11th article; which passed in the negative.

*Yea*: Virginia, 1. *Nays*: New Hampshire, Connecticut, Pennsylvania, Delaware, South Carolina, 5. *Divided*: Maryland, 1.

It was moved and seconded to add the following words to the 2d section, 11th article: "nor increased by any act of the legislature which shall operate before the expiration of three years after the passing thereof;" which passed in the negative.

*Yeas*: Maryland, Virginia, 2. *Nays*: New Hampshire, Connecticut, Pennsylvania, Delaware, South Carolina, 5.

It was moved and seconded to postpone the following clause, 3d section, 11th article: "to the trial of impeachments of officers of the United States;" which passed in the affirmative.

It was moved and seconded to add the following words after the word "controversies," 3d section, 11th article: "to which the United States shall be a party;" which passed in the affirmative.

It was moved and seconded to insert the words "this constitution, the" before the word "laws," 2d line, 3d section, 11th article; which passed in the affirmative.

It was moved and seconded to strike out the words "passed by the legislature," and to insert, after the words "United States," the words "and treaties made, or which shall be made, under their authority;" which passed in the affirmative.

It was moved and seconded to insert the word "controversies" before the words "between two or." Passed in the affirmative.

It was moved and seconded to postpone the following clause: "in cases of impeachment;" which passed in the affirmative.

It was moved and seconded to insert the words "the United States or" before the words "a state shall be a party;" which passed in the affirmative.

It was moved and seconded to agree to the following amendment: —

“ In all the other cases before mentioned, original jurisdiction shall be in the courts of the several states, but with appeal, both as to law and fact, to the courts of the United States, with such exceptions, and under such regulations, as the legislature shall make.”

The last motion being withdrawn, it was moved and seconded to amend the clause, to read, —

“ In cases of impeachment, cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, this jurisdiction shall be original. In all the other cases before mentioned, it shall be appellate, both as to law and fact, with such exceptions, and under such regulations, as the legislature shall make ; ”

which passed in the affirmative.

It was moved and seconded to add the following clause to the last amendment : —

“ But in cases in which the United States shall be a party, the jurisdiction shall be original or appellate, as the legislature may direct.

It was moved and seconded to amend the amendment, by striking out the words “ original or ; ” which passed in the affirmative.

*Yeas* : New Hampshire, Connecticut, Maryland, Virginia, South Carolina, Georgia, 6. *Nays* : Pennsylvania, Delaware, 2.

The question was then taken on the amendment as amended ; which passed in the negative.

*Yeas* : New Hampshire, Pennsylvania, Delaware, 3. *Nays* : Connecticut, Maryland, Virginia, South Carolina, Georgia, 5.

On the question to reconsider the 3d section, 11th article, it passed in the affirmative.

It was moved and seconded to strike out the words “ the jurisdiction shall be original,” and to insert the words “ the Supreme Court shall have original jurisdiction ; ” which passed in the affirmative.

It was moved and seconded to agree to the following amendment : —

“ In all the other cases before mentioned, the judicial power shall be exercised in such manner as the legislature shall direct ; ”

which passed in the negative.

*Yeas* : Delaware, Virginia, 2. *Nays* : New Hampshire, Connecticut, Pennsylvania, Maryland, South Carolina, Georgia, 6.

It was moved and seconded to strike out the last clause of the 3d section, 11th article ; which passed unanimously in the affirmative.

It was moved and seconded to insert the words “ both in law and equity ” before the word “ arising,” in the 1st line. 3d section, 11th article ; which passed in the affirmative.

It was moved and seconded to insert, after the words “between citizens of different states,” the words “between citizens of the same state claiming lands under grants of different states;” which passed in the affirmative.

The house adjourned.

TUESDAY, August 28, 1787.

The Hon. Mr. Sherman, from the committee to whom were referred several propositions entered on the Journal of the 25th inst., informed the house that the committee were prepared to report. The report was then delivered in at the secretary’s table, was read, and is as follows: —

“The committee report that the following be inserted after the 4th clause of the 7th section: —

“‘Nor shall any regulation of commerce or revenue give preference to the ports of one state over those of another, or oblige vessels bound to or from any state to enter or pay duties in another.

“‘And all tonnage, duties, imposts, and excises, laid by the legislature, shall be uniform throughout the United States.’”

It was moved and seconded to strike out the words “it shall be appellate,” and insert the words “the Supreme Court shall have appellate jurisdiction,” 3d section, 11th article; which passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 9. *Nay:* Maryland, 1.

It was moved and seconded to amend the 4th section of the 11th article, to read as follows: —

“The trial of all crimes (except in cases of impeachment) shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, then the trial shall be at such place or places as the legislature may direct;”

which passed in the affirmative.

It was moved and seconded to add the following amendment to the 4th section, 11th article: —

“The privilege of the writ of *habeas corpus* shall not be suspended, unless where, in cases of rebellion or invasion, the public safety may require it;”

which passed in the affirmative.

On the question to agree to the 5th section, 11th article, as reported, it passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, 7. *Nays:* North Carolina, South Carolina, Georgia, 3.

It was moved and seconded to insert the words “nor

emit bills of credit ” after the word “ money,” in the 12th article ; which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, 8. *Nays* : Virginia, 1. *Divided* : Maryland, 1.

It was moved and seconded to insert the following clause after the last amendment : —

“ nor make any thing but gold and silver coin a tender in payment of debts ; ” which passed unanimously in the affirmative, eleven states being present.

[New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.]

It was moved and seconded to add the following clause to the last amendment : —

“ nor pass any bill of attainder or *ex post facto* laws ; ” which passed in the affirmative.

*Yeas* : New Hampshire, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, 7. *Nays* : Connecticut, Maryland, Virginia, 3.

It was moved and seconded to insert, after the word “ reprisal,” the words “ nor lay embargoes ; ” which passed in the negative.

*Yeas* : Massachusetts, Delaware, South Carolina, 3. *Nays* : New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Georgia, 8.

It was moved and seconded to transfer the following words from the 13th to the 12th article : “ nor lay imposts, or duties, on imports ; ” which passed in the negative.

*Yeas* : New Hampshire, New Jersey, Delaware, North Carolina, 4. *Nays* : Massachusetts, Connecticut, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, 7.

Separate questions being taken on the several clauses of the 12th article, as amended, they passed in the affirmative.

It was moved and seconded to insert, after the word “ imports,” in the 13th article, the words “ or exports ; ” which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina, 6. *Nays* : Connecticut, Maryland, Virginia, South Carolina, Georgia, 5.

It was moved and seconded to add, after the word “ exports,” in the 13th article, the words, —

“ nor with such consent but for the use of the treasury of the United States ; ” which passed in the affirmative.



*Yeas*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Massachusetts, Maryland, 2.

The question being taken on the 1st clause of the 13th article, it passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Massachusetts, Maryland, 2.

Separate questions being taken on the several clauses of the 13th article, as amended, they passed in the affirmative.

On the question to agree to the 14th article, as reported, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 9. *Nay*: South Carolina, 1. *Divided*: Georgia, 1.

It was moved and seconded to strike out the words "high misdemeanor," and insert the words "other crime;" which passed in the affirmative.

On the question to agree to the 15th article, as amended, it passed in the affirmative.

The house adjourned.

WEDNESDAY, August 29, 1787.

It was moved and seconded to commit the 16th article, together with the following proposition: —

"To establish uniform laws upon the subject of bankruptcies, and respecting the damages arising on the protest of foreign bills of exchange;" which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: New Hampshire, Massachusetts, 2.

It was moved and seconded to commit the following proposition: —

"Whensoever the act of any state, whether legislative, executive, or judiciary, shall be attested and exemplified under the seal thereof, such attestation and exemplification shall be deemed, in other states, as full proof of the existence of that act; and its operation shall be binding in every other state, in all cases to which it may relate, and which are within the cognizance and jurisdiction of the state wherein the said act was done;"

which passed in the affirmative.

It was moved and seconded to commit the following proposition: —

"Full faith ought to be given, in each state, to the public acts, records, and judicial proceedings, of every other state; and the legislature shall, by

general laws, determine the proof and effect of such acts, records, and proceedings ;”

which passed in the affirmative. And the foregoing propositions, together with the 16th article, were referred to the Hon. Mr. Rutledge, Mr. Randolph, Mr. Gorham, Mr. Wilson and Mr. Johnson.

It was moved and seconded to postpone the report of the committee entered on the Journal on the 24th instant, to take up the following proposition :—

“ That no act of the legislature for the purpose of regulating the commerce of the United States with foreign powers, or among the several states, shall be passed without the assent of two thirds of the members of each house ;”

which passed in the negative.

*Yeas* : Maryland, Virginia, North Carolina, Georgia, 4. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, South Carolina, 7.

On the question to agree to the report of the committee of eleven, entered on the Journal of the 24th inst., passed in the affirmative.

It was moved and seconded to agree to the following proposition, to be inserted after the 15th article :—

“ If any person, bound to service or labor in any of the United States, shall escape into another state, he or she shall not be discharged from such service or labor in consequence of any regulations subsisting in the state to which they escape, but shall be delivered up to the person justly claiming their service or labor ;”

which passed unanimously in the affirmative.

It was moved and seconded to strike out the two last clauses in the 17th article ; which passed in the affirmative.

It was moved and seconded to strike the following words out of the 17th article :—

“ but to such admission the consent of two thirds of the members present in each house shall be necessary.”

And on the question being taken, it passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, 9  
*Nays* : Maryland, Virginia, 2.

It was moved and seconded to agree to the following proposition as a substitute for the 17th article :—

“ New states may be admitted by the legislature into the Union ; but no new state shall be erected within the limits of any of the present

states, without the consent of the legislature of such state, as well as of the general legislature."

Separate questions being taken on the different clauses of the proposition, they passed in the affirmative.

*Yeas*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays*: New Hampshire, Connecticut, New Jersey, Delaware, Maryland, 5.

The house adjourned.

THURSDAY, August 30, 1787.

It was moved and seconded to postpone the substitute for the 17th article, agreed to yesterday, in order to take up the amendment:—

"The legislature shall have power to admit other states into the Union, and new states to be formed by the division or junction of states now in the Union, with the consent of the legislature of such states; "

which passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, South Carolina, 5. *Nays*: New Jersey, Delaware, Maryland, Virginia, North Carolina, Georgia, 6.

It was moved and seconded to commit the substitute for the 17th article, agreed to yesterday.

And on the question being taken, it passed in the negative.

*Yeas*: New Jersey, Delaware, Maryland, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to strike out the words "the limits," and to insert the words "the jurisdiction," in the substitute offered to the 17th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, 7. *Nays*: New Jersey, North Carolina, South Carolina, Georgia, 4.

It was moved and seconded to insert the words "hereafter formed or," after the words "shall be," in the substitute for the 17th article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Delaware, Maryland, 2.

It was moved and seconded to postpone the consideration of the substitute to the 17th article, as amended, in order to take up the following proposition from Maryland:—

"The legislature of the United States shall have power to erect new states within as well as without the territory claimed by the several states,

or either of them, and admit the same into the Union; provided, that nothing in this Constitution shall be construed to affect the claim of the United States to vacant lands ceded to them by the late treaty of peace; which passed in the negative.

*Yeas*: New Jersey, Delaware, Maryland, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8.

On the question to agree to the substitute offered to the 17th article, as amended, as follows, —

“New states may be admitted by the legislature into the Union; but no new state shall be hereafter formed or erected within the jurisdiction of any of the present states without the consent of the legislature of such state, as well as of the general legislature,” —

it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: New Jersey, Delaware, Maryland, 3.

It was moved and seconded to add the following clause to the last amendment: —

“nor shall any state be formed by the junction of two or more states, or parts thereof, without the consent of the legislature of such states, as well as of the legislature of the United States;”

which passed in the affirmative.

It was moved and seconded to add the following clause to the last amendment: —

“*Provided, nevertheless*, that nothing in this Constitution shall be construed to affect the claim of the United States to vacant lands ceded to them by the late treaty of peace.”

The last motion being withdrawn, it was moved and seconded to agree to the following proposition: —

“Nothing in this Constitution shall be construed to alter the claims of the United States, or of the individual states, to the western territory; but all such claims may be examined into and decided upon by the Supreme Court of the United States.”

It was moved and seconded to postpone the last proposition, in order to take up the following: —

“The legislature shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution contained shall be so construed as to prejudice any claims either of the United States or of any particular state.”

It was moved and seconded to add the following clause to the last proposition: —

“But all such claims may be examined into and decided upon by the Supreme Court of the United States”



Passed in the negative.

*Yeas*: New Jersey, Maryland, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, 8.

On the question to agree to the following proposition, —

“The legislature shall have power to dispose of and make needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution contained shall be so construed as to prejudice any claims either of the United States or of any particular state,” —

it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Maryland, 1.

On the motion to agree to the 1st clause of the 18th article, it passed in the affirmative.

It was moved and seconded to strike out the word “foreign,” in the 18th article; which passed in the affirmative.

It was moved and seconded to strike out the words “on the application of its legislature against;” which passed in the negative.

*Yeas*: New Jersey, Pennsylvania, Delaware, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to strike out the words “domestic violence,” and insert the word “insurrections,” in the 18th article; which passed in the negative.

*Yeas*: New Jersey, Virginia, North Carolina, South Carolina, Georgia, 5. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, 6.

It was moved and seconded to insert the words “or executive” after the word “legislature;” which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, 8. *Nays*: Massachusetts, Virginia, 2.

It was moved and seconded to add the following clause to the last amendment: “in the recess of the legislature;” which passed in the negative.

*Yea*: Maryland, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10.

Separate questions being taken on the several clauses of the 18th article, as amended, they passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey,

Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 9  
*Nays*: Delaware, Maryland, 2.

On the question to agree to the 19th article, as reported, it passed in the affirmative.

It was moved and seconded to add the words "or affirmation," after the word "oath," 20th article; which passed in the affirmative.

On the question to agree to the 20th article, as amended, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, 8. *Nay*: North Carolina, 1. *Divided*: Connecticut, Maryland, 2.

It was moved and seconded to add the following clause to the 20th article:—

"but no religious test shall ever be required as a qualification to any office or public trust under the authority of the United States;"

which passed unanimously in the affirmative.

It was moved and seconded to take up the report of the committee of eleven; which passed in the negative.

*Yeas*: New Jersey, Delaware, Maryland, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8.

The house adjourned.

FRIDAY, August 31, 1787.

It was moved and seconded to insert the words "between the said states," after the word "Constitution," in the 21st article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 9  
*Nay*: Maryland, 1.

It was moved and seconded to postpone the consideration of the 21st article, to take up the reports of the committee which have not been acted on; which passed in the negative.

*Yeas*: New Hampshire, Pennsylvania, Delaware, Maryland, Georgia, 5. *Nays*: Massachusetts, New Jersey, Virginia, North Carolina, South Carolina, 5. *Divided*: Connecticut, 1.

It was moved and seconded to postpone the 21st, in order to take up the 22d article.

And on the question being taken, it passed in the negative.

*Yeas*: Connecticut, Pennsylvania, Delaware, Maryland, Virginia, 5  
*Nays*: New Hampshire, Massachusetts, New Jersey, North Carolina, South Carolina, Georgia, 6.

It was moved and seconded to strike the words "conventions of" out of the 21st article; which passed in the negative.

*Yeas*: Connecticut, Pennsylvania, Maryland, Georgia, 4. *Nays*: New Hampshire, Massachusetts, New Jersey, Delaware, Virginia, South Carolina, 6.

It was moved and seconded to fill up the blank in the 21st article with the word "thirteen;" which passed in the negative.

*Yea*: Maryland, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, 9.

It was moved and seconded to fill up the blank in the 21st article with the word "ten;" which passed in the negative.

*Yeas*: Connecticut, New Jersey, Maryland, Georgia, 4. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 7.

It was moved and seconded to fill up the blank in the 21st article, as follows:—

"any seven or more states entitled to thirty-three members, at least, in the House of Representatives, according to the allotment made in the 3d section, 4th article."

It was moved and seconded to fill up the blank in the 21st article with the word "nine;" which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Georgia, 8.

On the question to agree to the 21st article, as amended, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Maryland, 1.

It was moved and seconded to strike the words "for their approbation" out of the 22d article; which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, 7. *Nays*: Massachusetts, New Jersey, Maryland, Georgia, 4.

It was moved and seconded to agree to the following amendment to the 22d article:—

"This Constitution shall be laid before the United States in Congress assembled. And it is the opinion of this Convention that it should afterwards be submitted to a convention chosen in each state, in order to re-

ceive the ratification of such convention; to which end the several legislatures ought to provide for the calling conventions within their respective states as speedily as circumstances will permit;”

which passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Delaware, 4  
*Nays*: Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7.

It was moved and seconded to postpone the consideration of the 22d article; which passed in the negative.

*Yeas*: New Jersey, Maryland, North Carolina, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, 8.

On the question to agree to the 22d article, as amended, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Maryland, 1.

It was moved and seconded to fill up the blank in the 23d article with the word “nine;” which passed in the affirmative.

It was moved and seconded to agree to the 23d article as far as the words “assigned by Congress,” inclusive; which passed in the affirmative.

It was moved and seconded to postpone the remainder of the 23d article; which passed in the negative.

*Yeas*: Massachusetts, Delaware, Virginia, North Carolina, 4. *Nays*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Maryland, South Carolina, Georgia, 7.

It was moved and seconded to strike the words “choose the President of the United States and” out of the 23d article; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, Georgia, 8. *Nays*: New Hampshire, South Carolina, 2. *Divided*: Maryland, 1.

On the question to agree to the 23d article, it passed in the affirmative.

It was moved and seconded to take up the report of the committee of eleven, entered on the Journal of the 28th instant.

On the question to agree to the following clause of the report, to be inserted after the 4th section of the 7th article,—  
“nor shall any regulation of commerce or revenue give preference to the ports of one state over those of another,”—

it passed in the affirmative.

On the question to agree to the following clause in the report,—



“ or oblige vessels bound to or from any state to enter, clear, or pay duties, in another,” —

it passed in the affirmative.

It was moved and seconded to strike out the word “tonnage;” which passed in the affirmative.

On the question to agree to the following clause of the report, —

“ and all duties, imposts, and excises, laid by the legislature, shall be uniform throughout the United States,” —

it passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays*: New Hampshire, South Carolina, 2.

It was moved and seconded to refer such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on, to a committee of a member from each state; which passed in the affirmative.

And a committee was appointed, by ballot, of the Hon. Mr. Gilman, Mr. King, Mr. Sherman, Mr. Brearly, Mr. G. Morris, Mr. Dickinson, Mr. Carroll, Mr. Madison, Mr. Williamson, Mr. Butler, and Mr. Baldwin.

It was moved and seconded to adjourn. Passed in the affirmative.

*Yeas*: Massachusetts, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Nay*: Connecticut, 1. *Divided*: New Hampshire, 1.

The house adjourned.

SATURDAY, September 1, 1787.

The Hon. Mr. Brearly, from the committee of eleven, to whom such parts of the Constitution as have been postponed, and such parts of reports as have not been acted on, were referred, informed the house the committee were prepared to report partially.

The following report was then read: —

“ That, in lieu of the 9th section of the 6th article, the following be inserted; —

“ The members of each house shall be ineligible to any civil office under the authority of the United States during the time for which they shall be respectively elected; and no person holding any office of the United States shall be a member of either house during his continuance in office.”

The Hon. Mr. Rutledge, from the committee to whom sundry propositions, entered on the Journal of the 28th ultimo, were referred, informed the house that the committee were

prepared to report. The following report was then read That the following additions be made to the report, namely: —

After the word “states,” in the last line, on the margin of the third page, add, “to establish uniform laws on the subject of bankruptcies;” and insert the following as the 16th article, namely: —

“Full faith and credit ought to be given, in each state, to the public acts, records, and judicial proceedings, of every other state; and the legislature shall, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect which judgments obtained in one state shall have in another.”

It was moved and seconded to adjourn till Monday next, at 10 o'clock, A. M.

MONDAY, September 3, 1787.

It was moved by Mr. Morris, and seconded, to strike out the words “judgments obtained in one state shall have in another,” and to insert the word “thereof,” after the word “effect,” in the report from the committee of five, entered on the Journal of the 1st instant; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, North Carolina, South Carolina, 6. *Nays*: Maryland, Virginia, Georgia, 3.

It was moved and seconded to strike out the words “ought to,” and to insert the word “shall;” and to strike out the word “shall,” and insert the word “may,” in the report entered on the Journal of the 1st instant; which passed in the affirmative.

On the question to agree to the report amended as follows, —

“Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings, of every other state; and the legislature may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effects thereof,” —

it passed in the affirmative.

On the question to agree to the following clause of the report, —

“to establish uniform laws on the subject of bankruptcies,” —

it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay* Connecticut, 1.

It was moved and seconded to adjourn. Passed in the negative.

*Yeas*: Maryland, Virginia, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to postpone the consideration of the report from the committee of eleven, entered on the Journal of the 1st instant, in order to take up the following:—

“The members of each house shall be incapable of holding any office under the United States, for which they, or any other for their benefit, receive any salary, fees, or emoluments of any kind; and the acceptance of such office shall vacate their seats respectively.”

On the question to postpone, it passed in the negative.

*Yeas*: Pennsylvania, North Carolina, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Maryland, Virginia, South Carolina, Georgia, 8.

It was moved and seconded to adjourn. Passed in the negative.

*Yeas*: Pennsylvania, Maryland, Virginia, North Carolina, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, South Carolina, Georgia, 6.

It was moved and seconded to insert the word “created” before the word “during,” in the report of the committee of eleven; which passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, 5. *Nays*: Connecticut, New Jersey, Maryland, South Carolina, Georgia, 5.

It was moved and seconded to insert the words “created, or the emoluments whereof shall have been increased,” before the word “during,” in the report of the committee.

On the question being taken, the votes were,—

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, 5. *Nays*: Connecticut, New Jersey, Maryland, South Carolina, 4. *Divided*: Georgia, 1.

The same question was taken again; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Pennsylvania, Virginia, North Carolina, 5. *Nays*: Connecticut, Maryland, South Carolina, 3. *Divided*: Georgia, 1.

Separate questions having been taken on the report as amended, they passed in the affirmative. And the report as amended is as follows;

“The members of each house shall be ineligible to any civil office under the authority of the United States, created, or the emoluments whereof shall have been increased, during the time for which they shall respectively be elected; and no person holding any office under the United

States shall be a member of either house during his continuance in office."

The house then adjourned.

TUESDAY, *September 4, 1787.*

The Hon. Mr. Brearly, from the committee of eleven, informed the house that the committee were prepared to report partially. It was afterwards delivered in at the secretary's table, and was again read, and is as follows: —

"The committee of eleven, to whom sundry resolutions, &c., were referred on the 31st ultimo, report, —

"That, in their opinion, the following additions and alterations should be made to the report before the Convention, namely: —

"1. The 1st clause of the 1st section of the 7th article to read as follows: 'The legislature shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare, of the United States.'

"2. At the end of the 2d clause of the 1st section, 7th article, add, 'and with the Indian tribes.'

"3. In the place of the 9th article, 1st section, to be inserted, 'The Senate of the United States shall have power to try all impeachments; but no person shall be convicted without the concurrence of two thirds of the members present.'

"4. After the word 'excellency,' in the 1st section, 10th article, to be inserted, 'he shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected, in the following manner: —

"5. 'Each state shall appoint, in such manner as its legislature may direct, a number of electors, equal to the whole number of senators and members of the House of Representatives to which the state may be entitled in the legislature.

"6. 'The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the general government, directed to the president of the Senate.

"7. 'The president of the Senate shall, in that house, open all the certificates; and the votes shall be then and there counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of the electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the Senate shall choose by ballot one of them for President; but if no person have a majority, then, from the five highest on the list, the Senate shall choose by ballot the President. And in every case, after the choice of the President, the person having the greatest number of votes shall be Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them the Vice-President.

"8. 'The legislature may determine the time of choosing and assembling



bling the electors, and the manner of certifying and transmitting the votes.

“ ‘SECT. 2. No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of the Constitution, shall be eligible to the office of President; nor shall any person be elected to that office who shall be under the age of thirty-five years, and who has not been, in the whole, at least fourteen years a resident of the United States.

“ ‘SECT. 3. The Vice-President shall be, *ex officio*, president of the Senate, except when they sit to try the impeachment of the President, in which case the chief justice shall preside; and excepting, also, when he shall exercise the powers and duties of President, in which case, and in case of his absence, the Senate shall choose a president *pro tempore*. The Vice-President, when acting as president of the Senate, shall not have a vote, unless the house be equally divided.

“ ‘SECT. 4. The President, by and with the advice and consent of the Senate, shall have power to make treaties; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, and other public ministers, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for. But no treaty, except treaties of peace, shall be made without the consent of two thirds of the members present.’

“ After the words ‘into the service of the United States,’ in the 2d section, 10th article, add, ‘and may require the opinion, in writing, of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices.’

“ The latter part of the 2d section, 10th article, to read as follows:—

“ ‘He shall be removed from his office, on impeachment by the House of Representatives and conviction by the Senate, for treason or bribery; and, in case of his removal as aforesaid, death, absence, resignation, or inability to discharge the powers or duties of his office, the Vice-President shall exercise those powers and duties until another President be chosen, or until the inability of the President be removed.’ ”

On the question to agree to the 1st clause of the report, it passed in the affirmative.

On the question to agree to the 2d clause of the report, it passed in the affirmative.

It was moved and seconded to postpone the consideration of the 3d clause of the report; which passed in the affirmative.

It was moved and seconded to postpone the consideration of the remainder of the report; which passed in the negative.

*Yea:* North Carolina, 1. *Nays:* New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10.

After some time passed in debate, it was moved and seconded to postpone the consideration of the remainder of the

report, and that the members take copies thereof; which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Delaware, Maryland, Virginia, South Carolina, Georgia, 7. *Nays* : Connecticut, New Jersey, Pennsylvania, 3.

It was moved and seconded to refer the following motion to the committee of eleven : —

“To prepare and report a plan for defraying the expenses of this Convention ;”

which passed in the affirmative.

It was moved and seconded to adjourn ; which passed unanimously in the affirmative. The house adjourned.

WEDNESDAY, *September 5, 1787.*

The Hon. Mr. Brearly, from the committee of eleven, informed the house that the committee were prepared to report further. He then read the report in his place ; and the same, being delivered in at the secretary's table, was again read, and is as follows : —

“To add to the clause ‘to declare war,’ the words ‘and grant letters of marque and reprisal.’

“To add to the clause ‘to raise and support armies,’ the words ‘but no appropriation of money for that use shall be for a longer term than two years.’

“Instead of the 12th section of the 6th article, say, —

“‘All bills for raising revenue shall originate in the House of Representatives, and shall be subject to alterations and amendments by the Senate. No money shall be drawn from the treasury but in consequence of appropriations made by law.’

“Immediately before the last clause of the 1st section of the 7th article, —

“‘To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of the legislature, become the seat of the government of the United States ; and to exercise like authority over all places purchased for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

“‘To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.’”

On the question to agree to the 1st clause of the report, it passed in the affirmative.

On the question to agree to the 2d clause of the report, it passed in the affirmative.

It was moved and seconded to postpone the consideration of the 3d clause of the report. It passed in the affirmative.

It was moved and seconded to insert the following words after the word "purchased," in the 4th clause of the report: "by the consent of the legislature of the state;" which passed in the affirmative.

On the question to agree to the 4th clause of the report, it passed in the affirmative.

The following resolution and order, reported from the committee of eleven, were read:—

*Resolved*, That the United States in Congress be requested to allow, and cause to be paid, to the secretary and other officers of this Convention, such sums, in proportion to their respective times of service, as are allowed to the secretary and similar officers of Congress."

*Ordered*, That the secretary make out, and transmit to the treasury office of the United States, an account for the said services, and for the incidental expenses of this Convention."

Separate questions being taken on the foregoing resolve and order, they passed in the affirmative.

It was moved and seconded to take up the remainder of the report from the committee of eleven, entered on the Journal of the 4th instant.

It was moved and seconded to postpone the consideration of the report, in order to take up the following:—

"He shall be elected, by joint ballot, by the legislature, to which election a majority of the votes of the members present shall be required. He shall hold his office during the term of seven years, but shall not be elected a second time."

On the question to postpone, it passed in the negative.

*Yeas*: North Carolina, South Carolina, 2. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 8. *Divided*: New Hampshire, 1.

It was moved and seconded to strike out the words "if such number be a majority of that of the electors;" which passed in the negative.

*Yea*: North Carolina, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10.

It was moved and seconded to strike out the word "Senate," and insert the word "legislature;" which passed in the negative.

*Yeas*: Pennsylvania, Virginia, South Carolina, 3. *Nays*: Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, Georgia, 7. *Divided*: New Hampshire, 1.

It was moved and seconded to strike out the words "such majority," and to insert the words "one third;" which passed in the negative.

*Yeas* : Virginia, North Carolina, 2. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 9.

It was moved and seconded to strike out the word "five," and to insert "three;" which passed in the negative.

*Yeas* : Virginia, North Carolina, 2. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 9.

It was moved and seconded to strike out the word "five," and to insert the word "thirteen;" which passed in the negative.

*Yeas* : North Carolina, South Carolina, 2. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 9.

It was moved and seconded to add, after the word "electors," the words "who shall have balloted;" which passed in the negative.

*Yeas* : Pennsylvania, Maryland, Virginia, North Carolina, 4. *Nays* : New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, South Carolina, Georgia, 7.

It was moved and seconded to add, after the words "if such number be a majority of the whole number of the electors," the word "appointed;" which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 9. *Nays* : Virginia, North Carolina, 2.

It was moved and seconded to insert, after the words "the legislature may determine the time of choosing and assembling the electors," the words "and of their giving their votes;" which passed in the affirmative.

The house adjourned.

THURSDAY, *September 6, 1787.*

It was moved and seconded to insert the following words after the words "may be entitled in the legislature," in the 5th clause of the report, entered on the Journal of the 4th instant : —

"but no person shall be appointed an elector who is a member of the legislature of the United States, or who holds any office of profit or trust under the United States;"

which passed in the affirmative.

It was moved and seconded to insert the word "seven," instead of "four," in the 4th clause of the report; which passed in the negative.

*Yeas* : New Hampshire, Virginia, North Carolina, 3. *Nays* : Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, South Carolina, Georgia, 8.



It was moved and seconded to insert the word "six," instead of "four;" which passed in the negative.

*Yeas*: North Carolina, South Carolina, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 9.

The question being put to agree to the word "four," it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10. *Nay*: South Carolina, 1.

On the question to agree to the 4th clause of the report, as follows, —

"He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected in the following manner," —

it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10. *Nay*: North Carolina, 1.

On the question upon the 5th clause of the report, prescribing the appointment of electors, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Georgia, 9. *Nays*: North Carolina, South Carolina, 2.

It was moved and seconded to agree to the following clause: —

"That the electors meet at the seat of the general government;" which passed in the negative.

*Yea*: North Carolina, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10.

It was moved and seconded to insert the words "under the seal of the state," after the word "transmit," in the 6th clause of the report; which passed in the negative.

It was moved and seconded to agree to the 6th clause of the report; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10. *Nay*: North Carolina, 1.

It was moved and seconded to agree to the words "the person having the greatest number of votes shall be President," in the 7th clause of the report; which passed in the affirmative.

*Yeas*: New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North

Carolina, South Carolina, Georgia, 8. *Nays*: Massachusetts, Connecticut, 2. *Divided*: New Hampshire, 1.

It was moved and seconded to agree to the words "if such number be a majority of the whole number of the electors appointed;" which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, South Carolina, Georgia, 8. *Nays*: Pennsylvania, Virginia, North Carolina, 3.

It was moved and seconded to insert the words "in presence of the Senate and House of Representatives," after the word "counted;" which passed in the affirmative.

*Yeas*: New Hampshire, Maryland, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays*: Connecticut, New Jersey, Pennsylvania, Delaware, 4.

It was moved and seconded to insert the words "and who shall have given their votes" after the word "appointed," in the 7th clause of the report; which passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, 5. *Nays*: New Hampshire, Connecticut, New Jersey, Delaware, Maryland, Georgia, 6.

It was moved and seconded to insert the word "immediately" before the word "choose;" which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10. *Nay*: North Carolina, 1.

It was moved and seconded to insert the words "of the electors" after the word "votes;" which passed unanimously in the affirmative.

It was moved and seconded to agree to the following clause, "but the election shall be on the same day throughout the United States," after the words "transmitting their votes;" which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Massachusetts, New Jersey, Delaware, 3.

It was moved and seconded to strike out the words "the Senate shall immediately choose by ballot," &c., and to insert the words, —

"the House of Representatives shall immediately choose by ballot one of them for President, the members from each state having one vote;"

which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Delaware, 1.

It was moved and seconded to agree to the following amendment:—

“but a quorum for this purpose shall consist of a member or members from two thirds of the states;”

which passed unanimously in the affirmative.

On the question to agree to the following amendment,—

“and also of a majority of the whole number of the House of Representatives,”—

it passed in the negative.

*Yeas:* Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, 5. *Nays:* New Hampshire, New Jersey, Delaware, Maryland, South Carolina, Georgia, 6.

On the question to agree to the following paragraph of the report,—

“and in every case, after the choice of the President, the person having the greatest number of votes shall be the Vice-President; but if there should remain two or more who have equal votes, the Senate shall choose from them the Vice-President,”—

it passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, 10. *Nay:* North Carolina, 1.

The several amendments being agreed to, on separate questions, the 1st section of the report is as follows:—

“He shall hold the office during the term of four years; and, together with the Vice-President, chosen for the same term, be elected in the following manner:—

“Each state shall appoint, in such manner as its legislature may direct, a number of electors equal to the whole number of senators and members of the House of Representatives to which the state may be entitled in the legislature.

“But no person shall be appointed an elector who is a member of the legislature of the United States, or who holds any office of profit or trust under the United States.

“The electors shall meet in their respective states, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same state with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the general government, directed to the president of the Senate.

“The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

“The person having the greatest number of votes shall be the President, (if such number be a majority of the whole number of the electors appointed;) and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; the representation from each state having one vote. But if no person have a majority, then, from the five highest on the list the House of

Representatives shall, in like manner, choose by ballot the President. In the choice of a President, by the House of Representatives, a quorum shall consist of a member or members from two thirds of the states; and the concurrence of a majority of all the states shall be necessary to such choice. And in every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes the Senate shall choose from them the Vice-President.

“The legislature may determine the time of choosing the electors, and of their giving their votes, and the manner of certifying and transmitting their votes. But the election shall be on the same day throughout the United States.”

The house adjourned.

FRIDAY, September 7, 1787.

It was moved and seconded to insert the following clause after the words “throughout the United States,” in the 1st section of the report:—

“The legislature may declare by law what officer of the United States shall act as President, in case of the death, resignation, or disability, of the President and Vice-President; and such officer shall act accordingly, until such disability be removed, or a President shall be elected;”— which passed in the affirmative.

*Yeas*: New Jersey, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, 6. *Nays*: Massachusetts, Connecticut, Delaware, North Carolina, 4. *Divided*: New Hampshire, 1.

It was moved and seconded to insert the following amendment after the words “a member or members from two thirds of the states,” in the 1st section of the report, “and a concurrence of a majority of all the states shall be necessary to make such choice;” which passed in the affirmative.

On the question to agree to the 2d section of the report, it passed in the affirmative.

The question being taken on the 1st clause of the 3d section of the report, —

“The Vice-President shall be, *ex officio*, president of the Senate,” — it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, South Carolina, Georgia, 8. *Nays*: New Jersey, Maryland, 2.

Separate questions having been taken on the several clauses of the 3d section of the report, they passed in the affirmative.

It was moved and seconded to insert the words “and the House of Representatives,” after the word “Senate,” in the 1st clause of the 4th section of the report; which passed in the negative.



*Yea* Pennsylvania, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to substitute the words "foreign ministers," instead of "ambassadors and other public ministers," in the 2d clause of the 4th section of the report; which passed in the negative.

*Yeas*: Pennsylvania, Maryland, North Carolina, South Carolina, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Virginia, Georgia, 7.

It was moved and seconded to amend the 2d clause of the 4th section of the report, to read, "ambassadors, other public ministers, and consuls;" which passed unanimously in the affirmative.

A question was taken on the words "judges of the Supreme Court," which passed unanimously in the affirmative.

A question was taken upon the words "and all other officers," which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, Georgia, 9. *Nays*: Pennsylvania, South Carolina, 2.

It was moved by Mr. Madison, and seconded, to postpone the consideration of the 4th section of the report, in order to take up the following:—

"That it be an instruction to the committee of the states to prepare a clause, or clauses, for establishing an executive council, or a council of state, for the President of the United States, to consist of six members, two of which from the Eastern, two from the Middle, and two from the Southern States, with a rotation and duration of office similar to that of the Senate; such council to be appointed by the legislature or by the Senate."

On the question to postpone, it passed in the negative.

*Yeas*: Maryland, South Carolina, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, 8.

It was moved and seconded to agree to the following clause:—

"That the President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of the next session of the Senate;"

which passed in the affirmative.

It was moved and seconded to insert the words "except treaties of peace," after the word "treaty," in the 4th section of the report as amended; it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Delaware, Mary-

land, Virginia, North Carolina, South Carolina, 8. *Nays*: New Jersey, Pennsylvania, Georgia, 3.

It was moved and seconded to postpone the following clause of the report:—

“and may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices;”

which passed in the negative.

*Yeas*: Maryland, Virginia, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, 8.

On the question to agree to the clause, it passed unanimously in the affirmative.

It was moved and seconded to agree to the following amendment:—

“but no treaty of peace shall be entered into, whereby the United States shall be deprived of any of their present territory or rights, without the concurrence of two thirds of the members of the Senate present.”

The house adjourned.

SATURDAY, September 8, 1787.

It was moved and seconded to strike the words “except treaties of peace” out of the 4th section of the report; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: New Jersey, Delaware, Maryland, 3.

It was moved and seconded to strike out the last clause of the 4th section of the report; which passed in the negative.

*Yea*: Delaware, 1. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Divided*: Connecticut, 1.

It was moved and seconded to agree to the following amendment:—

“two thirds of all the members of the Senate to make a treaty;” — which passed in the negative.

*Yeas*: North Carolina, South Carolina, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 8.

It was moved and seconded to agree to the following amendment:—

“a majority of all the members of the Senate to make a treaty;” which passed in the negative.

*Yeas*: Massachusetts, Connecticut, Delaware, South Carolina, Georgia, 5. *Nays*: New Hampshire, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, 6.

It was moved and seconded to agree to the following amendment:—

“but no treaty shall be made before all the members of the Senate are summoned, and shall have time to attend;”

which passed in the negative.

*Yeas*: North Carolina, South Carolina, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, 8.

It was moved and seconded to agree to the following amendment:—

“neither shall any appointment be made as aforesaid, unless to offices established by the Constitution, or by law;”

which passed in the negative.

*Yeas*: Massachusetts, Connecticut, New Jersey, North Carolina, Georgia, 5. *Nays*: New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, 6.

It was moved and seconded to insert the words “or other high crimes and misdemeanors against the state,” after the word “bribery;” which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, Georgia, 7. *Nays*: New Jersey, Pennsylvania, Delaware, South Carolina, 4.

It was moved and seconded to strike out the words “by the Senate,” after the word “conviction;” which passed in the negative.

*Yeas*: Pennsylvania, Virginia, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, 9.

It was moved and seconded to strike out the word “state,” after the word “against,” and to insert the words “United States;” which passed unanimously in the affirmative.

On the question to agree to the last clause of the report, it passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay*: Pennsylvania, 1.

It was moved and seconded to add the following clause after the words “United States:”—

“the Vice-President and other civil officers of the United States shall be removed from office on impeachment and conviction as aforesaid;”

which passed unanimously in the affirmative.

It was moved and seconded to amend the 3d clause of the report, entered on the Journal of the 5th instant, to read as follows, instead of the 12th section, 6th article:—

“ All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills. No money shall be drawn from the treasury but in consequence of appropriations made by law;”

which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Delaware, Maryland, 2.

It was moved and seconded to amend the 3d clause of the report entered on the Journal of the 4th inst., to read as follows:—

In the place of the 1st section, 9th article, insert, —

“ The Senate of the United States shall have power to try all impeachments; but no person shall be convicted without the concurrence of two thirds of the members present; and every member shall be on oath;”

which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, 9. *Nays*: Pennsylvania, Virginia, 2.

It was moved and seconded to agree to the following clause:—

“ The legislature shall have the sole right of establishing offices not herein provided for;”

which passed in the negative.

*Yeas*: Massachusetts, Connecticut, Georgia, 3. *Nays*: New Hampshire, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, 8.

It was moved and seconded to amend the said clause of the 2d section, 10th article, to read, —

“ he may convene both or either of the houses on extraordinary occasions;”

which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Delaware, Maryland, North Carolina, Georgia, 7. *Nays*: Massachusetts, Pennsylvania, Virginia, South Carolina, 4.

It was moved and seconded to appoint a committee of five to revise the style of, and arrange, the articles agreed to by the house; which passed in the affirmative.

And a committee was appointed, by ballot, of the Hon. Mr. Johnston, Mr. Hamilton, Mr. G. Morris, Mr. Madison. and Mr. King.

The house adjourned.

MONDAY, September 10, 1787.

It was moved and seconded to reconsider the 3d section



of the 4th article, which prescribes the number of the House of Representatives; which passed in the negative.

*Yeas*: Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 5. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, South Carolina, Georgia, 6.

It was moved and seconded to reconsider the 19th article; which passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay*: New Jersey, 1. *Divided*: New Hampshire, 1.

It was moved and seconded to amend the 19th article, by adding the following clause:—

“or the legislature may propose amendments to the several states, for their approbation; but no amendment shall be binding until consented to by the several states.”

It was moved and seconded to insert the words “two thirds of” before the words “the several states;” which passed in the negative.

*Yeas*: New Hampshire, Pennsylvania, Delaware, Maryland, Virginia, 5. *Nays*: Massachusetts, Connecticut, New Jersey, North Carolina, South Carolina, Georgia, 6.

It was moved and seconded to insert the words “three fourths;” which passed unanimously in the affirmative.

It was moved and seconded to postpone the consideration of the amendment, in order to take up the following:—

“The legislature of the United States, whenever two thirds of both houses shall deem necessary, or on the application of two thirds of the legislature of the several states, shall propose amendments to this Constitution, which shall be valid, to all intents and purposes, as parts thereof, when the same shall have been ratified by three fourths, at least, of the legislatures of the several states, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the legislature of the United States; provided that no amendments which may be made prior to the year 1808 shall in any manner affect the 4th and 5th sections of article the 7th.”

On the question to postpone, it passed in the affirmative.

On the question to agree to the last amendment, it passed in the affirmative.

*Yeas*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay*: Delaware, 1. *Divided*: New Hampshire, 1.

It was moved and seconded to reconsider the 21st and 22d articles; which (the question being separately put upon each article) passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, Virginia, North

Carolina, Georgia, 7. *Nays*: Massachusetts, Pennsylvania, South Carolina, 3. *Divided*: New Hampshire, 1.

It was moved and seconded to postpone the 21st article, in order to take up the following:—

“*Resolved*, That the foregoing plan of the Constitution be transmitted to the United States, in Congress assembled, in order that, if the same shall be agreed to by them, it may be communicated to the legislatures of the several states, to the end that they may provide for its final ratification, by referring the same to the consideration of a convention of deputies in each state, to be chosen by the people thereof; and that it be recommended to the said legislatures, in their respective acts for organizing such convention, to declare that, if the said convention shall approve of the said Constitution, such approbation shall be binding and conclusive upon the state; and further, that, if the said convention should be of opinion that the same, upon the assent of any new states thereto, ought to take effect between the states so assenting, such opinion shall thereupon be also binding upon each state; and the said Constitution shall take effect between the states assenting thereto.”

On the question to postpone, it passed in the negative.

*Yea*: Connecticut, 1. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

On the question to agree to the 21st article, it passed unanimously in the affirmative.

It was moved and seconded to restore the words “for their approbation” to the 22d article. Passed in the negative.

It was moved and seconded to refer the following to the committee of revision:—

“That it be an instruction to the committee to prepare an address to the people, to accompany the present Constitution, and to be laid, with the same, before the United States in Congress;”

which passed in the affirmative.

TUESDAY, September 11, 1787.

The house met; but the committee of revision not having reported, and there being no business before the Convention, the house adjourned.

WEDNESDAY, September 12, 1787.

The Hon. Mr. Johnston, from the committee of revision, informed the house that the committee were prepared to report the Constitution as revised and arranged. The report was then delivered in at the secretary’s table; and, having been once read throughout,—

“*Ordered*, That the members be furnished with printed copies thereof

## REVISED DRAFT OF THE CONSTITUTION,

REPORTED SEPTEMBER 12, 1787, BY THE COMMITTEE OF REVISION.

[Paper furnished by General Bloomfield. The original is Mr. Brearly's copy of the draft, with manuscript interlineations and erasures of the amendments adopted on the examination and discussion.]

"We, the people of the United States, in order to form a more perfect union, to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

"ART. I.—SECT. 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

"SECT. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

"No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

"Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to servitude for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every forty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

"When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

"The House of Representatives shall choose their speaker and other officers; and they shall have the sole power of impeachment.

"SECT. 3. The Senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years and each senator shall have one vote.

"Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one third may be chosen every second year. And if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature.

“No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

“The Vice-President of the United States shall be, *ex officio*, president of the Senate, but shall have no vote, unless they be equally divided.

“The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

“The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath. When the President of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

“Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

“SECT. 4. The times, places, and manner, of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations.

“The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

“SECT. 5. Each house shall be the judge of the elections, returns, and qualifications, of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

“Each house may determine the rules of its proceedings; punish its members for disorderly behavior; and, with the concurrence of two thirds, expel a member.

“Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the Journal.

“Neither house, during the session of Congress, shall, without consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

“SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

“No senator or representative shall, during the time for which he was elected, be appointed to any civil office, under the authority of the United States, which shall have been created, or the emoluments whereof shall



have been increased, during such time ; and no person holding any office under the United States shall be a member of either house during his continuance in office.

“SECT. 7. The enacting style of the laws shall be, ‘*Be it enacted by the senators and representatives, in Congress assembled.*’

“All bills for raising revenue shall originate in the House of Representatives ; but the Senate may propose or concur with amendments, as on other bills.

“Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States. If he approve, he shall sign it ; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered ; and if approved by two thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be decided by yeas and nays ; and the names of the persons voting for and against the bill shall be entered on the Journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by its adjournment, prevent its return ; in which case it shall not be a law.

“Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on the question of adjournment,) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by three fourths of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

“SECT. 8. The Congress may, by joint ballot, appoint a treasurer. They shall have power to lay and collect taxes, duties, imposts, and excises ; to pay the debts, and provide for the common defence and general welfare, of the United States ;

“To borrow money on the credit of the United States ;

“To regulate commerce with foreign nations, among the several states, and with the Indian tribes ;

“To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States ;

“To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures ;

“To provide for the punishment of counterfeiting the securities and current coin of the United States ;

“To establish post-offices and post-roads ;

“To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries ;

“To constitute tribunals inferior to the Supreme Court ;

“To define and punish piracies and felonies committed on the high seas, and offences against the law of nations ;

“To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water ;

“ To raise and support armies, — but no appropriation of money to that use shall be for a longer term than two years ;

“ To provide and maintain a navy ;

“ To make rules for the government and regulation of the land and naval forces ;

“ To provide for the calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions ;

“ To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the United States — reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress ;

“ To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of government of the United States ; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings ; and,

“ To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

“ SECT. 9. The migration or importation of such persons as the several states, now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight ; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

“ The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

“ No bill of attainder shall be passed, or any *ex post facto* law.

“ No capitation tax shall be laid, unless in proportion to the census herein before directed to be taken.

“ No tax or duty shall be laid on articles exported from any state.

“ No money shall be drawn from the treasury, but in consequence of appropriations made by law.

“ No title of nobility shall be granted by the United States.

“ And no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

“ SECT. 10. No state shall coin money, nor emit bills of credit, nor make any thing but gold and silver coin a tender in payment of debts, nor pass any bill of attainder, nor *ex post facto* laws, nor laws altering or impairing the obligation of contracts ; nor grant letters of marque and reprisal ; nor enter into any treaty, alliance, or confederation ; nor grant any title of nobility.

“ No state shall, without the consent of Congress, lay imposts or duties on imports or exports, nor with such consent, but to the use of the treasury of the United States ; nor keep troops or ships of war in time of peace ; nor enter into any agreement or compact with another state, nor with any foreign power ; nor engage in any war, unless it shall be actually

invaded by enemies, or the danger of invasion be so imminent as not to admit of delay until the Congress can be consulted.

“ART. II. — SECT. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected in the following manner:—

“Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in Congress; but no senator or representative shall be appointed an elector, nor any person holding an office of trust or profit under the United States.

“The electors shall meet in their respective states, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the general government, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates; and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by states, and not *per capita*, the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two thirds of the states; and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President by the representatives, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

“The Congress may determine the time of choosing the electors, and the time in which they shall give their votes; but the election shall be on the same day throughout the United States.

“No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

“In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed, or the period for choosing another President arrive.

“The President shall, at stated times, receive a fixed compensation for his services, which shall neither be increased nor diminished during the period for which he shall have been elected.

“Before he enter on the execution of his office, he shall take the following oath or affirmation:—



“ I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my judgment and power, preserve, protect, and defend the Constitution of the United States.’

“ **SECT. 2.** The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States.

“ He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices. And he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

“ He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for.

“ The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of the next session.

“ **SECT. 3.** He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

“ **SECT. 4.** The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

“ **ART. III.—SECT. 1.** The judicial power of the United States, both in law and equity, shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

“ **SECT. 2.** The judicial power shall extend to all cases, both in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; or between a state, or the citizens thereof, and foreign states, citizens, or subjects.

“ In cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all other cases before mentioned, the Supreme



Court shall have appellate jurisdiction, both as to law and fact,— with such exceptions, and under such regulations, as the Congress shall make.

“The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crime shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

“SECT. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

“The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, nor forfeiture, except during the life of the person attainted.

“ART. IV.—SECT. 1. Full faith and credit shall be given, in each state, to the public acts, records, and judicial proceedings, of every other state. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.

“SECT. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

“A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, and removed to the state having jurisdiction of the crime.

“No person legally held to service or labor in one state, escaping into another, shall, in consequence of regulations subsisting therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due.

“SECT. 3. New states may be admitted by the Congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

“The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claim of the United States, or of any particular state.

“SECT. 4. The United States shall guaranty to every state in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the legislature or executive, against domestic violence.

“ART. V. The Congress, whenever two thirds of both houses shall deem necessary, or on the application of two thirds of the legislatures of the several states, shall propose amendments to this Constitution, which shall be valid, to all intents and purposes, as part thereof, when the same shall have been ratified by three fourths, at least, of the legislatures of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the and sections of article

“ART. VI. All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

“This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.

“The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office of public trust under the United States.

“ART. VII. The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.”

The draft of a letter to Congress, being at the same time reported, was read once throughout, and afterwards agreed to by paragraphs.

#### THE LETTER TO CONGRESS.

[Paper deposited by President Washington, at the Department of State.]

“We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most advisable.

“The friends of our country have long seen and desired that the power of making war, peace, and treaties; that of levying money and regulating commerce; and the correspondent executive and judicial authorities, shall be fully and effectually vested in the general government of the Union. But the impropriety of delegating such extensive trust to one body of men is evident. Thence results the necessity of a different organization. It is obviously impracticable, in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty, to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved. And, on the present occasion, this difficulty was increased by a difference, among the several states, as to their situation, extent, habits, and particular interests.

“In all our deliberations on this subject, we kept steadily in our view that which appeared to us the greatest interest of every true American, — the consolidation of the Union, — in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state, in the Convention, to be less rigid, in points of inferior magnitude, than might have been otherwise expected. And thus the Constitution which we now present is the result of a spirit of amity, and of that mutual defer-

ence and concession which the peculiarity of our political situation rendered indispensable.

"That it will meet the full and entire approbation of every state is not, perhaps, to be expected. But each will doubtless consider, that, had her interest alone been consulted, the consequences might have been particularly disagreeable and injurious to others. That it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish."

It was moved and seconded to reconsider the 13th section of the 6th article; which passed in the affirmative.

It was moved and seconded to strike out the words "three fourths," and to insert the words "two thirds," in the 13th section of the 6th article; which passed in the affirmative.

*Yeas*: Connecticut, New Jersey, Maryland, North Carolina, South Carolina, Georgia, 6. *Nays*: Massachusetts, Pennsylvania, Delaware, Virginia, 4. *Divided*: New Hampshire, 1.

It was moved and seconded to appoint a committee to prepare a bill of rights; which passed unanimously in the negative.

It was moved and seconded to reconsider the 13th article, in order to add the following clause at the end of the 13th article:—

"*Provided* nothing herein contained shall be construed to restrain any state from laying duties upon exports, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses in keeping the commodities in the care of public officers before exportation."—

It was agreed to reconsider.

*Yeas*: Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Nays*: New Hampshire, New Jersey, Delaware, 3.

THURSDAY, September 13, 1787.

The Hon. Mr. Johnston, from the committee of revision, reported the following as a substitute for the 22d and 23d articles:—

"*Resolved*, That the preceding Constitution be laid before the United States in Congress assembled; and that it is the opinion of this Convention, that it should afterwards be submitted to a convention of delegates chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each convention, assenting to and ratifying the same, should give notice thereof to the United States in Congress assembled.

"*Resolved*, That it is the opinion of this Convention, that, as soon as the conventions of nine states shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the states which shall have ratified the same; and

a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution; that, after such publication, the electors should be appointed, and the senators and representatives elected; that the electors should meet on the day fixed for the election of the President, and should transmit their votes, certified, signed, sealed, and directed, as the Constitution requires, to the secretary of the United States in Congress assembled; that the senators and representatives should convene at the time and place assigned; that the senators should appoint a president of the Senate for the sole purpose of receiving, opening, and counting the votes for President; and that, after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution."

The clause offered to the house yesterday, to be added to the 13th article, being withdrawn, it was moved and seconded to agree to the following amendment to the 13th article: —

"*Provided*, That no state shall be restrained from imposing the usual duties on produce exported from that state, for the sole purpose of defraying the charges of inspecting, packing, storing, and indemnifying the losses on such produce, while in the custody of public officers; but all such regulations shall, in case of abuse, be subject to the revision and control of Congress;"

which passed in the affirmative.

It was moved and seconded to postpone the consideration of the report of the committee, respecting the 22d and 23d articles; which passed in the affirmative.

*Yeas*: New Hampshire, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nays*: Connecticut, 1.

It was moved and seconded to proceed to the comparing of the report from the committee of revision with the articles which were agreed to by the house, and to them referred for arrangement; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Maryland, Virginia, North Carolina, Georgia, 7. *Nays*: Pennsylvania, Delaware, South Carolina, 3.

And the same was read by paragraphs, compared, and in some places corrected and amended.

[No entry of the corrections and amendments adopted or proposed appears upon the Journals. The sheets of yeas and nays exhibit, however, many of the questions upon the amendments proposed, and the result of the votes upon them. The amendments adopted are interlined in manuscript, in the revised draft of the Constitution used by Mr. Breatly; and, with the Minutes furnished by Mr. Madison to complete the Journal, collated with the entries on the sheets of yeas and nays, present the following questions and votes: —]



It was moved and seconded to add the words "for two years;" [see 2d section, 1st article;] which passed in the negative.

*Yeas*: Massachusetts, 1. *Nays*: New Hampshire, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to insert the word "service" instead of "servitude," article 1st, section 2d, clause 3d; which passed unanimously in the affirmative.

It was moved and seconded to strike out the words "and direct taxes" from the same clause; which passed in the negative.

*Yeas*: New Jersey, Delaware, Maryland, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to insert, between "after" and "it," the words "the day on which." Passed in the negative.

*Yeas*: Pennsylvania, Maryland, Virginia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to rescind the rule for adjournment; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Virginia, North Carolina, South Carolina, Georgia, 6. *Nays*: Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, 5.

It was moved and seconded to insert, after the word "parts," the words "of the proceedings of the Senate;" which passed in the negative.

*Yeas*: Pennsylvania, Maryland, North Carolina, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Virginia, Georgia, 7. *Divided*: South Carolina, 1.

It was moved and seconded to strike out the word "to" before "establish justice," in the preamble; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Delaware, Maryland, North Carolina, South Carolina, Georgia, 8. *Nays*: New Jersey, Virginia, 2.

It was moved and seconded to reconsider the 2d clause of the 3d section, 1st article; which passed in the negative.

*Yeas*: Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 5. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, South Carolina, Georgia, 6.

Question omitted.

*Yea*: Virginia, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 10.

Question omitted.

*Yeas*: Connecticut, South Carolina, Georgia, 3. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, 8.

It was moved and seconded to reconsider the 1st clause of the 5th section of the 1st article; which passed in the negative.

*Yeas*: New Jersey, Maryland, North Carolina, Georgia, 1. *Nays*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, South Carolina, 7.

Question omitted.

[It was probably on adding the words "except as to the place of choosing senators," after the word "regulations," in the 4th section of the 1st article; which amendment was adopted.]

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, 9. *Nay*: Delaware, 1. *Divided*: Pennsylvania, 1.

Question omitted. Passed in the negative.

*Yeas*: Maryland, Virginia, North Carolina, Georgia, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, South Carolina, 7.

Question omitted. Passed in the negative.

*Yeas*: Massachusetts, Pennsylvania, South Carolina, 3. *Nays*: New Hampshire, Connecticut, New Jersey, Delaware, Maryland, Virginia, North Carolina, Georgia, 8.

Question omitted. Passed in the affirmative.

[It was probably on striking out the words "three fourths," and inserting "two thirds," in the 4th clause, 7th section, 1st article.]

*Yeas*: Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, 7. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Virginia, 4.

FRIDAY, September 14, 1787.

The report from the committee of revision, as corrected and amended yesterday, being taken up, was read, debated by paragraphs, amended, and agreed to, as far as the 1st clause of the 10th section, 1st article, inclusive.

Question — To strike out the words "may by joint ballot appoint a treasurer. — They," from the 1st clause of the 8th section, 1st article; which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, Georgia, 8. *Nays*: Massachusetts, Pennsylvania, Virginia, 3.

Question — To reconsider the 10th clause, 8th section, 1st article; which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, 8. *Nays*: New Jersey, Virginia, Georgia, 3.

Question — To strike out the word “punish;” which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, New Jersey, Delaware, North Carolina, South Carolina, 6. *Nays*: Massachusetts, Pennsylvania, Maryland, Virginia, Georgia, 5.

Question — To grant letters of incorporation for canals, &c., — a clause proposed to be added to the 8th section of the 1st article. Passed in the negative.

*Yeas*: Pennsylvania, Virginia, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, 8.

Question — To establish a university, — an additional clause proposed to the 8th section of the 1st article. Passed in the negative.

*Yeas*: Pennsylvania, Virginia, North Carolina, South Carolina, 4. *Nays*: New Hampshire, Massachusetts, New Jersey, Delaware, Maryland, Georgia, 6. *Divided*: Connecticut, 1.

It was moved and seconded to insert, before the words “to provide for organizing, arming,” &c., the words “and that the liberties of the people may be better secured against the danger of standing armies in time of peace,” article 1st, section 8th. Passed in the negative.

*Yeas*: Virginia, Georgia, 2. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, 9.

Question — To reconsider the *ex post facto* clause. Passed unanimously in the negative.

Question — To insert “the liberty of the press shall be inviolably preserved.” Passed in the negative.

*Yeas*: New Hampshire, Massachusetts, Maryland, Virginia, South Carolina, 5. *Nays*: Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, Georgia, 6.

Question — To insert the words “or enumeration,” after the word “census,” in the 4th clause of the 9th section, 1st article. Passed in the affirmative.

*Yeas*: New Hampshire, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 8. *Nays*: Connecticut, South Carolina, 2.

Question omitted. Passed unanimously in the affirmative.

[Probably upon one or all of the following three amendments, adopted.]

Add, at the end of the 1st clause of the 8th section. 1st article, —

“but all duties, imposts, and excises, shall be uniform throughout the United States.”

Add, at the end of the 5th clause of the 9th section, 1st article, —

“No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties, in another.”

Add, at the end of the 6th clause of the 9th section, 1st article, —

“and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.”

The following amendments to the revised draft were likewise adopted: —

Article 1st, section 2d, clause 5th. Strike out the word “they.”

Article 1st, section 3d, clause 2d. Add, at the end of the clause, after the word “legislature,” the words “which shall then fill such vacancies.”

Article 1st, section 3d, clause 4th. Strike out the words “*ex officio*.”

Article 1st, section 3d, clause 6th. After the word “oath,” insert “or affirmation.”

Article 1st, section 8th, clause 3d. After the word “nation,” insert the word “and.”

Article 1st, section 9th, clause 1st. Strike out the word “several,” and between the words “as” and “the,” insert the words “any of.”

Alter the 3d clause, so as to read, “no bill of attainder or *ex post facto* law shall be passed.”

In the 4th clause, after the word “capitation,” insert the words “or other direct.”

Article 1st, section 10th, clause 1st, was variously amended, to read as follows: —

“No state shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make any thing but gold or silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts or grant any title of nobility.”

The house adjourned.

SATURDAY, September 15, 1787.

It was moved and seconded to appoint a committee to pre-



pare an address to the people of the United States, to accompany the Constitution; which passed in the negative.

*Yeas*: Pennsylvania, Delaware, Maryland, Virginia, 4. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, North Carolina, Georgia, 6.

It was moved and seconded to reconsider the 3d clause, 2d section, 1st article; which passed in the affirmative.

*Yeas*: New Hampshire, Connecticut, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays*: Massachusetts, New Jersey, 2. *Divided*: Pennsylvania, 1.

It was moved and seconded to —

[N. B. The volume containing the Journal of the Convention, deposited in the department of state by President Washington, terminates thus, leaving the Journal imperfect, and the Minutes of Saturday, September 15, crossed out with a pen. It has been completed in the following manner, by Minutes furnished, at the request of President Monroe, by Mr. Madison: —]

— add one member to the representatives of North Carolina, and of Rhode Island.

On the question as to Rhode Island, it passed in the negative.

*Yeas*: New Hampshire, Delaware, Maryland, North Carolina, Georgia, 5. *Nays*: Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, South Carolina, 6.

On the question as to North Carolina, it passed in the negative.

*Yeas*: Maryland, Virginia, North Carolina, South Carolina, Georgia, 5. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, 6.

It was moved to set aside article 1st, section 10th, clause 2d, and substitute, —

“No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.”

It was moved to strike out the words “and all such laws shall be subject to the revision and control of the Congress;” which passed in the negative.

It was moved and seconded to strike out “and all such laws shall be subject to the revision and control of Congress;” which passed in the negative.

*Yeas*: Virginia, North Carolina, Georgia, 3. *Nays*: New Hampshire,

Massachusetts, Connecticut, New Jersey, Delaware, Maryland, South Carolina, 7. *Divided*: Pennsylvania, 1.

The substitute was then agreed to.

It was moved and seconded to substitute, for 1st part of clause 2d, section 10th, article 1st, the words, —

“No state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be indispensably necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress;”

which passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Georgia, 10. *Nays*: Virginia, 1.

It was moved, —

“That no state shall be restrained from laying duties on tonnage for the purpose of clearing harbors and erecting lighthouses.”

It was moved, —

“That no state shall lay any duty on tonnage without the consent of Congress;”

which last motion passed in the affirmative.

*Yeas*: New Hampshire, Massachusetts, New Jersey, Delaware, Maryland, South Carolina, 6. *Nays*: Pennsylvania, Virginia, North Carolina, Georgia, 4. *Divided*: Connecticut, 1.

The clause was then agreed to in the following form: —

“No state shall, without the consent of Congress, lay any duty on tonnage; keep troops or ships of war in time of peace; enter into any agreement or compact with another state or with a foreign power; or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.”

Article 2d, section 1st, clause 6th. On motion to strike out the words “the period for choosing another President arrive,” and insert “a President shall be elected,” it passed in the affirmative.

It was moved to annex to clause 7th, section 1st, article 2d, —

“and he shall not receive, within that period, any other emolument from the United States, or any of them;”

which passed in the affirmative.

It was moved and seconded to annex to clause 7th, section 1st, article 2d, the words, —

“and he [the President] shall not receive, within that period, any other emolument from the United States, or any of them;”

which passed in the affirmative.

*Yeas* : New Hampshire, Massachusetts, Pennsylvania, Maryland, Virginia, South Carolina, Georgia, 7. *Nays* : Connecticut, New Jersey, Delaware, North Carolina, 4.

Article 2d, section 2d. It was moved to insert "except in cases of treason;" which passed in the negative.

It was moved and seconded to insert the words "except in cases of treason," article 2d, section 2d; which passed in the negative.

*Yeas* : Virginia, Georgia, 2. *Nays* : New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, 8. *Divided* : Connecticut, 1.

Article 2d, section 2d, clause 2d. It was moved to add, — "but the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments;" which passed in the affirmative.

[The following verbal amendments to the 2d and 3d articles of the revised draft were also adopted.]

Article 2d, section 1st, clause 1st. Strike out the words "in the following manner," and insert in their stead the words "as follows."

Section 1st, clause 2d. Transpose the words "shall be appointed an elector," to the end of the clause; and instead of the word "nor" read "or."

Section 1st, clause 3d. Strike out the words "and not *per capita*," and the words "by the representatives."

Section 1st, clause 4th. Strike out the words "time in," and insert the words "day on;" strike out "but the election shall be on the same day," and insert "which day shall be the same."

Section 1st, clause 7th. Instead of "receive a fixed compensation for his services," read "receive for his services a compensation."

In the oath to be taken by the President, strike out the word "judgment," and insert "abilities."

Section 2d, clause 1st. After the words "militia of the several states," add the words "when called into the actual service of the United States."

Section 2d, clause 2d. After the words "provided for," add "and which shall be established by law."

Article 3d, section 1st. Strike out the words "both in law and equity."

Section 2d, clause 1st. Strike out the word "both."

Article 3d, section 2d, clause 3d. It was moved to add the words "and a trial by jury shall be preserved, as usual, in civil cases;" which passed in the negative.

It was moved and seconded to annex, —

"but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments."

Article 2d, section 2d, clause 1st, passed in the negative.

*Yeas* : New Hampshire, Connecticut, New Jersey, Pennsylvania, North Carolina, 5. *Nays* : Massachusetts, Delaware, Virginia, South Carolina, Georgia, 5. *Divided* : Maryland, 1.

Article 4th, section 2d, clause 2d. Instead of "and removed," read "to be removed."

Section 2d, clause 3d. For "of regulations subsisting," read "of any law or regulation."

Article 4th, section 2d, clause 3d. It was moved to strike out the word "legally," and insert, after the word "state," the words "under the laws thereof."

Passed in the affirmative.

It was moved and seconded to strike out "legally," &c., article 4th, section 2d, clause 3d; which passed in the affirmative.

*Yeas* : Connecticut, Maryland, Virginia, North Carolina, Georgia, 5. *Nays* : Massachusetts, New Jersey, Pennsylvania, South Carolina, 4. *Divided* : New Hampshire, Delaware, 2.

Article 4th, section 3d. It was moved to insert, after the words "or parts of states," the words "or a state, and part of a state;" which passed in the negative.

Article 4th, section 4th. After the word "executive," insert "when the legislature cannot be convened."

Article 5th. It was moved to amend the article so as to require a convention on application of two thirds of the states; which passed in the affirmative.

It was moved and seconded to amend article 5th, so as to require a convention on the application of two thirds of the states. Passed in the affirmative.

*Yeas* : Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Nays* : New Hampshire, Massachusetts, New Jersey, 3.

It was moved and seconded to insert in article 4th, section 3d, after the words "or parts of states," the words "or a state and part of a state." Passed in the negative.

*Yea* : South Carolina, 1. *Nays* : New Hampshire, Massachusetts



Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 10.

It was moved and seconded to strike out, after "legislatures," the words "of three fourths," and so after the word "conventions," article 5th — [leaving future conventions to proceed like the present.] Passed in the negative.

*Yeas*: Massachusetts, Connecticut, New Jersey, 3. *Nays*: Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 7. *Divided*: New Hampshire, 1.

It was moved and seconded to strike out the words "or by conventions in three fourths thereof." Passed in the negative.

*Yea*: Connecticut, 1. *Nays*: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, 10.

It was moved and seconded to annex to the end of article 5th a proviso, —

"that no state shall, without its consent, be affected in its internal police, or deprived of its equal suffrage in the Senate."

Passed in the negative.

*Yeas*: Connecticut, New Jersey, Delaware, 3. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8.

It was moved and seconded to strike out article 5th. Passed in the negative.

*Yeas*: Connecticut, New Jersey, 2. *Nays*: New Hampshire, Massachusetts, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, 8. *Divided*: Delaware, 1.

It was moved to strike out of article 5th, after the word "legislatures," the words "of three fourths," and also, after the word "conventions," so as to leave future conventions to act like the present Convention, according to circumstances; which passed in the negative.

It was moved to strike out the words "or by conventions in three fourths thereof;" which passed in the negative.

It was moved to annex to the article a further proviso, —

"that no state shall, without its consent, be affected in its internal police, or deprived of its equal suffrage in the Senate."

Passed in the negative.

It was moved to strike out the 5th article altogether, which passed in the negative.

It was moved to add a proviso,—

“that no state, without its consent, shall be deprived of its equal suffrage in the Senate;”

which passed in the affirmative.

It was moved, as a further proviso, —

“that no law, in nature of a navigation act, be passed, prior to the year 1808, without the consent of two thirds of each branch of the legislature;”

which passed in the negative.

*Yeas*: Maryland, Virginia, Georgia, 3. *Nays*: New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, South Carolina, 7.

It was moved, —

“that amendments to the plan might be offered by the conventions, which should be submitted to, and finally decided on, by another General Convention;”

which passed in the negative — all the states concurring.

It was moved and seconded, —

“that amendments to the plan might be offered by the state conventions, which should be submitted to, and finally decided on, by another General Convention.”

Passed unanimously in the negative.

The blanks in the 5th article of the revised draft were filled up; and it was otherwise amended to read as follows: —

“The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no amendment which may be made prior to the year 1808 shall in any manner affect the 1st and 4th clauses in the 9th section of the 1st article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.”

On the question to agree to the Constitution as amended, it passed in the affirmative — **ALL THE STATES CONCURRING.**

*Ordered*, That the Constitution be engrossed. The house adjourned.

MONDAY, September 17, 1787

*Close of the General Convention.*

The engrossed Constitution being read, it was moved that the Constitution be signed by the members in the following, as a convenient form: —

“Done in Convention, by the unanimous consent of the states present the 17th September, &c. In witness whereof, we have hereunto subscribed our names.”

It was moved to reconsider the clause declaring that “the number of representatives shall not exceed one for every forty thousand,” in order to strike out “forty thousand,” and insert “thirty thousand;” which passed in the affirmative.

On the question to agree to the Constitution, enrolled in order to be signed, — all the states answered, “Ay.”

On the question to agree to the above form of signing, it passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, 10. *Divided:* South Carolina, 1.

It was moved that the Journal, and other papers of the Convention, be deposited with the president; which passed in the affirmative.

*Yeas:* New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, 10. *Nay:* Maryland, 1.

The president having asked what the Convention meant should be done with the Journal, it was resolved, *nem. con.*, “That he retain the Journal and other papers, subject to the order of the Congress, if ever formed under this Constitution.”

The members proceeded to sign the Constitution; and the Convention then dissolved itself by an adjournment *sine die*.

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## SUPPLEMENT

TO

### THE JOURNAL OF THE FEDERAL CONVENTION.

The following extract, from the Journal of the Congress of the Confederation, exhibits the proceedings of that body on receiving the report of the Convention: —

UNITED STATES IN CONGRESS ASSEMBLED.

FRIDAY, September 28, 1787.

*Present:* New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia, and from Maryland Mr. Ross.

Congress, having received *the report of the Convention* lately assembled in Philadelphia, —

“ *Resolved, unanimously*, That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a Convention of delegates chosen in each state, by the people thereof, in conformity to the resolves of the Convention made and provided in that case.”

The states having accordingly passed acts for severally calling conventions, and the Constitution being submitted to them, *the ratifications* thereof were transmitted to Congress as follows: —

## THE RATIFICATIONS OF THE TWELVE STATES,

*Reported in the General Convention.*

### 1. DELAWARE.

We, the deputies of the people of the Delaware state, in Convention met, having taken in our serious consideration the Federal Constitution proposed and agreed upon by the deputies of the United States in a General Convention held at the city of Philadelphia, on the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, have approved, assented to, ratified, and confirmed, and by these presents do, in virtue of the power and authority to us given, for and in behalf of ourselves and our constituents, fully, freely, and entirely approve of, assent to, ratify, and confirm, the said Constitution.

Done in Convention, at Dover, this seventh day of December, in the year aforesaid, and in the year of the independence of the United States of America the twelfth.

In testimony whereof, we have hereunto subscribed our names.

#### *Sussex County.*

John Ingram,  
John Jones,  
William Moore,  
William Hall,  
Thomas Laws,  
Isaac Cooper,  
Woodman Storkley,  
John Laws,  
Thomas Evans,  
Israel Holland.

#### *Kent County.*

Nicholas Ridgely,  
Richard Smith,  
George Fruitt,  
Richard Bassett,  
James Sykes,  
Allen M'Lean,  
Daniel Cummins, Sen.  
Joseph Barker,  
Edward White,  
George Manlove.

#### *Newcastle County.*

James Latimer, *President*,  
James Black,  
John James,  
Gunning Bedford, Sen.  
Kensley Johns,  
Thomas Watson,  
Solomon Maxwell,  
Nicholas Way,  
Thomas Duff,  
Gunning Bedford, Jun.

[L. s.] *To all to whom these Presents shall come, Greeting.*

I, Thomas Collins, president of the Delaware state, do hereby certify, that the above instrument of writing is a true copy of the original ratification of the Federal Constitution by the Convention of the Delaware state, which original ratification is now in my possession.

In testimony whereof, I have caused the seal of the Delaware state to be hereunto annexed.

THOMAS COLLINS.

### 2. PENNSYLVANIA.

IN THE NAME OF THE PEOPLE OF PENNSYLVANIA.

Be it known unto all men, that we, the delegates of the people of the commonwealth of Pennsylvania, in General Convention assembled, have assented to and ratified, and by these presents do, in the name and by the authority of the same people, and for ourselves, assent to and ratify the foregoing Constitution for the United States of America. Done in Convention at Philadelphia, the twelfth day of December.



in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

FREDERICK A. MUHLENBERG, *President*

George Latimer,  
Benjamin Rush,  
Hilary Baker,  
James Wilson,  
Thomas M'Kean,  
To. Macpherson,  
John Hunn,  
George Gray,  
Samuel Ashmead,  
Enoch Edwards,  
Henry Wynkoop,  
John Barclay,  
Thomas Yardley,  
Abraham Stout,  
Thomas Bull,

Anthony Wayne,  
William Gibbons,  
Richard Downing,  
Thomas Cheney,  
John Hannum,  
Stephen Chambers,  
Robert Coleman,  
Sebastian Graff,  
John Hubley,  
Jasper Yeates,  
Henry Slagle,  
Thomas Campbell,  
Thomas Hartley,  
David Grier,  
John Black,

Benjamin Pedan,  
John Arndt,  
Stephen Balliat,  
Joseph Horsefield,  
David Dashler,  
William Wilson,  
John Boyd,  
Thomas Scott,  
John Nevill,  
John Allison,  
Jonathan Roberts,  
John Richards,  
James Morris,  
Timothy Pickering,  
Benjamin Elliot.

Attest. JAMES CAMPBELL, *Secretary*.

### 3. NEW JERSEY.

#### IN CONVENTION OF THE STATE OF NEW JERSEY.

Whereas a Convention of delegates from the following states, viz., — New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, — met at Philadelphia, for the purpose of deliberating on, and forming, a Constitution for the United States of America, — finished their session on the 17th day of September last, and reported to Congress the form which they had agreed upon, in the words following, viz. : [See the *Constitution*.]

And whereas Congress, on the 28th day of September last, unanimously did resolve, "That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates, chosen in each state by the people thereof, in conformity to the resolves of the Convention made and provided in that case ;"

And whereas the legislature of this state did, on the 29th day of October last, resolve in the words following, viz., "*Resolved, unanimously*, That it be recommended to such of the inhabitants of this state as are entitled to vote for representatives in General Assembly, to meet in their respective counties on the fourth Tuesday in November next, at the several places fixed by law for holding the annual elections, to choose three suitable persons to serve as delegates from each county in a state Convention, for the purposes hereinbefore mentioned, and that the same be conducted agreeably to the mode, and conformably with the rules and regulations, prescribed for conducting such elections ;—

"*Resolved, unanimously*, That the persons so elected to serve in state Convention, do assemble and meet together on the second Tuesday in December next, at Trenton, in the county of Hunterdon, then and there to take into consideration the aforesaid Constitution and if approved of by them, finally to ratify the same, in behalf and on the part of this state, and make report thereof to the United States in Congress assembled, in conformity with the resolutions thereto annexed.

"*Resolved*, That the sheriffs of the respective counties of this state shall be, and they are hereby, required to give as timely notice as may be, by advertisements, to the people of their counties, of the time, place, and purpose of holding elections, as aforesaid."

And whereas the legislature of this state did also, on the 1st day of November last, make and pass the following act, viz., "An Act to authorize the people of this state to meet in convention, deliberate upon, agree to, and ratify, the Constitution of the United States proposed by the late General Convention, — Be it enacted by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the people thereof, by their delegates, to meet in Convention to deliberate upon, and, if approved of by them, to ratify, the Constitution for the United States proposed by the General Convention held at Philadelphia

## RATIFICATIONS — NEW JERSEY, CONNECTICUT. 321

and every act, matter, and clause, therein contained, conformedly to the resolutions of the legislature passed the 29th day of October, 1787, — any law, usage, or custom, to the contrary in any wise notwithstanding ;”

Now be it known, that we, the delegates of the state of New Jersey, chosen by the people thereof, for the purpose aforesaid, having maturely deliberated on and considered the aforesaid proposed Constitution, do hereby, for and on the behalf of the people of the said state of New Jersey, agree to, ratify, and confirm, the same and every part thereof.

Done in Convention, by the unanimous consent of the members present, this 18th day of December, in the year of our Lord 1787, and of the independence of the United States of America the twelfth.

In witness whereof, we have hereunto subscribed our names.

JOHN STEVENS, *President,*  
and delegate from the county of Hunterdon.

<i>County of</i>	<i>County of</i>
<i>Cape May</i> , . . . . . Jesse Hand, Jeremiah Eldridge, Matthew Willdin.	<i>Middlesex</i> , . . . . . John Neilson, John Beatty, Benjamin Manning
<i>Hunterdon</i> , . . . . . David Brearly, Joshua Corshon.	<i>Monmouth</i> , . . . . . Elisha Lawrence, Samuel Breeze, William Crawford.
<i>Morris</i> , . . . . . William Windes, William Woodhull, John Jacob Facsch.	<i>Somerset</i> , . . . . . John Witherspoon, Jacob R. Hardenberg, Frederick Frelinghuysen
<i>Cumberland</i> , . . . . . David Potter, Jonathan Bowen, Eli Elmer.	<i>Burlington</i> , . . . . . Thomas Reynolds, Geo. Anderson, Joshua M. Wallace.
<i>Sussex</i> , . . . . . Robert Ogden, Thomas Anderson, Robert Hoops.	<i>Gloucester</i> , . . . . . Richard Howell, Andrew Hunter, Benjamin Whitall.
<i>Perth Amboy</i> , . . . . . John Fell, Peter Zobriskie, Cornelius Hennon.	<i>Salem</i> , . . . . . Whitten Cripps, Edmund Wetherby.
<i>Essex</i> , . . . . . John Chetwood, Samuel Hay, David Crane.	

Attest. SAMUEL W. STOCKTON, *Secretary.*

### 4. CONNECTICUT

IN THE NAME OF THE PEOPLE OF THE STATE OF CONNECTICUT.

We, the delegates of the people of said state, in general Convention assembled, pursuant to an act of the legislature in October last, have assented to, and ratified, and by these presents do assent to, on the 17th day of September, A. D. 1787, for the United States of America.

Done in Convention, this 9th day of January, A. D. 1788.

In witness whereof, we have hereunto set our hands.

MATTHEW GRISWOLD, *President*

Jeremiah Wadsworth,	Jabez Fitch,	John Curtiss,
Jesse Root,	Nehemiah Beardsley,	Asa Barns,
Isaac Lee,	James Potter,	Stephen Mix Mitchell,
Selah Hart,	John Chandler,	John Chester,
Zebulon Peck, Jun.,	Issac Burnham,	Oliver Ellsworth,
Elisha Pitkin,	John Wilder,	Roger Newberry,
Erastur Wolcott,	Mark Prindle,	Roger Sherman,
John Watson,	Jedediah Hubbel,	Pierpont Edwards,
John Treadwell,	Aaron Austin,	Samuel Beach,
William Judd,	Samuel Canfield,	Daniel Holbrook,
Nathaniel Minor,	Daniel Everitt,	John Holbrook,
Jonathan Sturges,	Hezekiah Fitch,	Gideon Buckingham,
Thaddeus Burr,	Joshua Porter,	Lewis Mallet, Jun.
Elisha Whittlesey,	Benjamin Hinna,	Joseph Hopkins,
Joseph Moss White,	Joseph Mosely,	John Welton,
Amos Mead,	Wait Goodrich,	Richard Law,

Amasa Learned,	Simeon Smith,	Robert M'Cune,
Samuel Huntington,	Hendrick Dow,	Daniel Sherman,
Jedediah Huntington,	Seth Paine,	Samuel Orton,
Isaac Huntington,	Asa Witter,	Asher Miller,
Robert Robbins,	Moses Cleveland,	Samuel H. Parsons,
Daniel Foot,	Samson Howe,	Ebenezer White,
Eli Hyde,	William Danielson,	Hezekiah Goodrich,
Joseph Woodbridge,	William Williams,	Dyer Throop,
Stephen Billings,	James Bradford,	Jabez Chapman,
Andrew Lee,	Joshua Dunlap,	Cornelius Higgins,
William Noyes,	Daniel Learned,	Hezekiah Bramard,
Joshua Raymond, Jun.,	Moses Campbell,	Theophilus Morgan,
Jeremiah Halsey,	Benjamin Dow,	Hezekiah Lane,
Wheeler Coit,	Oliver Wolcott,	William Hart,
Charles Phelps,	Jedediah Strong,	Samuel Shipman,
John Beach,	Moses Hawley,	Jeremiah West,
Hezekiah Rogers,	Charles Burrall,	Samuel Chapman,
Lemuel Sandford,	Nathan Hale,	Ichabod Warner,
William Heron,	Daniel Miles,	Samuel Carver,
Philip Burr Bradley,	Asaph Hall,	Jeremiah Ripley,
Nathan Danchy,	Epaphras Sheldon,	Ephrain Root,
James Davenport,	Eleazer Curtiss,	John Phelps,
John Davenport, Jun.,	John Whittlesey,	Isaac Foot,
Wm. Samuel Johnson,	Dan. Nath. Brinsmade,	Abijah Sessions,
Elisha Mills,	Thomas Fenn,	Caleb Holt,
Eliphalet Dyer,	David Smith,	Seth Crocker.
Jedediah Elderkin,		

STATE OF CONNECTICUT, SS. HARTFORD, *January Ninth*, Anno Domini, 1788.  
The foregoing ratification was agreed to, and signed as above, by one hundred and twenty-eight, and dissented to by forty delegates in convention, which is a majority of eighty-eight.

Certified by MATTHEW GRISWOLD, *Presidenti.*

Teste. JEDEDIAH STRONG, *Secretary.*

## 5. COMMONWEALTH OF MASSACHUSETTS.

The Convention having impartially discussed, and fully considered, the Constitution for the United States of America, reported to Congress by the Convention of Delegates from the United States of America, and submitted to us by a resolution of the General Court of the said commonwealth, passed the 25th day of October last past, — and acknowledging, with grateful hearts, the goodness of the Supreme Ruler of the universe in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, — do, in the name and in behalf of the people of the commonwealth of Massachusetts, assent to and ratify the said Constitution for the United States of America.

And as it is the opinion of this Convention, that certain amendments and alterations in the said Constitution would remove the fears, and quiet the apprehensions, of many of the good people of this commonwealth, and more effectually guard against an undue administration of the federal government, — the Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution —

I. That it be explicitly declared that all powers not expressly delegated by the aforesaid Constitution are reserved to the several states, to be by them exercised.

II. That there shall be one representative to every thirty thousand persons, according to the census mentioned in the Constitution, until the whole number of the representatives amounts to two hundred.

III. That Congress do not exercise the powers vested in them by the 4th section of the 1st article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeably to the Constitution.

IV. That Congress do not lay direct taxes but when the moneys arising from the impost and excise are insufficient for the public exigencies, nor then until Congress

shall have first made a requisition upon the states to assess, levy, and pay, their respective proportions of such requisition, agreeably to the census fixed in the said Constitution, in such way and manner as the legislatures of the states shall think best; and in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon at the rate of six per cent. per annum, from the time of payment prescribed in such requisition.

V. That Congress erect no company of merchants with exclusive advantages of commerce.

VI. That no person shall be tried for any crime by which he may incur an infamous punishment, or loss of life, until he be first indicted by a grand jury, except in such cases as may arise in the government and regulation of the land and naval forces.

VII. The Supreme Judicial Federal Court shall have no jurisdiction of causes between citizens of different states, unless the matter in dispute, whether it concerns the realty or personalty, be of the value of three thousand dollars at the least; nor shall the federal judicial powers extend to any actions between citizens of different states, where the matter in dispute, whether it concerns the realty or personalty, is not of the value of fifteen hundred dollars at least.

VIII. In civil actions between citizens of different states, every issue of fact, arising in actions at common law, shall be tried by a jury, if the parties, or either of them, request it.

IX. Congress shall at no time consent that any person, holding an office of trust or profit under the United States, shall accept of a title of nobility, or any other title or office, from any king, prince, or foreign state.

And the Convention do, in the name and in behalf of the people of this commonwealth, enjoin it upon their representatives in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the 5th article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

And that the United States in Congress assembled may have due notice of the assent and ratification of the said Constitution by this Convention, it is *Resolved*, That the assent and ratification aforesaid be engrossed on parchment, together with the recommendation and injunction aforesaid, and with this resolution; and that his excellency, John Hancock, Esq., president, and the Hon. William Cushing, Esq., vice-president of this Convention, transmit the same, countersigned by the secretary of the Convention, under their hands and seals, to the United States in Congress assembled.

JOHN HANCOCK, *President*.

WILLIAM CUSHING, *Vice-President*.

GEORGE RICHARDS MINOT, *Secretary*.

Pursuant to the resolution aforesaid, we, the president and vice-president above named, do hereby transmit to the United States in Congress assembled the same resolution, with the above assent and ratification of the Constitution aforesaid, for the United States, and the recommendation and injunction above specified.

In witness whereof, we have hereunto set our hands and seals, at Boston, in the commonwealth aforesaid, this 7th day of February, Anno Domini 1788, and in the twelfth year of the independence of the United States of America.

JOHN HANCOCK, *President*. [L. s.]

WM. CUSHING, *Vice-President*. [L. s.]

## 6. STATE OF GEORGIA.

IN CONVENTION, WEDNESDAY, *January 2d*, 1788.

*To all to whom these Presents shall come, Greeting.*

Whereas the form of a Constitution for the government of the United States of America, was, on the 17th day of September, 1787, agreed upon and reported to Congress by the deputies of the said United States convened in Philadelphia, which said Constitution is written in the words following, to wit: —

And whereas the United States in Congress assembled did, on the 28th day of September, 1787, *resolve*, unanimously, "That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a Convention of delegates chosen in each state by the people thereof, in conformity to the resolves of the Convention made and provided in that case: " —



And whereas the legislature of the state of Georgia did, on the 26th day of October, 1787, in pursuance of the above-recited resolution of Congress, *resolve*, That a Convention be elected on the day of the next general election, and in the same manner that representatives are elected; and that the said Convention consist of not more than three members from each county; and that the said Convention should meet at Augusta, on the 4th Tuesday in December then next, and, as soon thereafter as convenient, proceed to consider the said report and resolutions, and to adopt or reject any part or the whole thereof;—

Now know ye, that we, the delegates of the people of the state of Georgia, in Convention met, pursuant to the resolutions of the legislature aforesaid, having taken into our serious consideration the said Constitution, have assented to, ratified, and adopted, and by these presents do, in virtue of the powers and authority to us given by the people of the said state for that purpose, for and in behalf of ourselves and our constituents, fully and entirely assent to, ratify, and adopt, the said Constitution.

Done in Convention, at Augusta, in the said state, on the 2d day of January, in the year of our Lord 1788, and of the independence of the United States the 12th.

In witness whereof, we have hereunto subscribed our names.

JOHN WEREAT, *President*,  
and delegate for the county of Richmond.

<p><i>County of</i> Chatham, ..... W. Stephens, Joseph Habersham. Effingham, ..... Jenhim Davis, N. Brownson. Burke, ..... Edward Telfair, H. Todd. Richmond, ..... William Few, James M'Niell. Wilkes, ..... Geo. Matthews, Flor. Sullivan, John King. Liberty, ..... James Powell, John Elliot, James Maxwell.</p>	<p><i>County of</i> Glynn, ..... George Handley, Christopher Hillary, J. Milton. Camden, ..... Henry Osborn, James Seagrove, Jacob Weed. Washington, ..... Jared Irwin, John Rutherford. Greene, ..... Robert Christmas, Thomas Daniel, R. Middleton.</p>
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7. MARYLAND.

IN CONVENTION OF THE DELEGATES OF THE PEOPLE OF THE STATE OF MARYLAND, April 28, 1788.

We, the delegates of the people of the state of Maryland, having fully considered the Constitution of the United States of America, reported to Congress by the Convention of deputies from the United States of America, held in Philadelphia, on the 17th day of September, in the year 1787, of which the annexed is a copy, and submitted to us by a resolution of the General Assembly of Maryland, in November session, 1787, do, for ourselves, and in the name and on the behalf of the people of this state, assent to and ratify the said Constitution.

In witness whereof, we have hereunto subscribed our names.

GEO. PLATER, *President*.

<p>Richard Barnes, Charles Chilton, N. Lewis Sewall, William Tilghman, Donaldson Yeates, Isaac Perkins, John Gale, N. Hammond, Daniel Sullivan, James Shaw, Jos. Gilpin, H. Hollingsworth, John Done, Thomas Johnson, Thomas S. Lee,</p>	<p>Richard Potts, Abraham Few, William Paca, William Granger, Joseph Wilkinson, Charles Graham, John Cheslea, Jun. W. Smith, G. R. Brown, J. Parnham, Zeph. Turner, Michael Jenifer Stone, R. Goldsborough, Jun., Edward Lloyd, John Stevens,</p>	<p>George Gale, Henry Waggaman, John Stewart, James Gordon Heron, Samuel Evans, Fielder Bowie, Osborne Sprigg, Benjamin Hall, George Digges, Nicholas Carrole, A. C. Hanson, James Tilghman, John Seney, James Hollyday, William Hemsley,</p>
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Peter Chaille,  
James Martin,  
William Morris,  
J. Richardson,  
William Richardson,  
Matt. Driver,

Peter Edmonson,  
James M'Henry,  
John Coulter,  
Thomas Sprigg,  
John Stull,  
Moses Rawlings,

Henry Shryock,  
Thomas Cramphin,  
Richard Thomas,  
William Deakins, Jun.  
Benj. Edwards.

Attest. W. M. HARWOOD, *Clerk.*

### 8. STATE OF SOUTH CAROLINA.

In Convention of the people of the state of South Carolina, by their representatives held in the city of Charleston, on Monday the 12th day of May, and continued by divers adjournments to Friday, the 23d day of May, Anno Domini 1788, and in the 12th year of the independence of the United States of America.

The Convention, having maturely considered the Constitution, or form of government, reported to Congress by the Convention of Delegates from the United States of America, and submitted to them by a resolution of the legislature of this state, passed the 17th and 18th days of February last, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to the people of the said United States, and their posterity, — Do, in the name and behalf of the people of this state, hereby assent to and ratify the said Constitution.

Done in Convention, the 23d day of May, in the year of our Lord 1788, and of the independence of the United States of America the twelfth.

THOMAS PINCKNEY, *President.* [L. s.]

Attest. JOHN SANDFORD DART, *Secretary.*

[L. s.]

And whereas it is essential to the preservation of the rights reserved to the several states, and the freedom of the people, under the operations of a general government, that the right of prescribing the manner, time, and places, of holding the elections to the federal legislature, should be forever inseparably annexed to the sovereignty of the several states, — This Convention doth declare, that the same ought to remain, to all posterity, a perpetual and fundamental right in the local, exclusive of the interference of the general government, except in cases where the legislatures of the states shall refuse or neglect to perform and fulfil the same, according to the tenor of the said Constitution.

This Convention doth also declare, that no section or paragraph of the said Constitution warrants a construction that the states do not retain every power not expressly relinquished by them, and vested in the general government of the Union.

*Resolved*, That the general government of the United States ought never to impose direct taxes, but where the moneys arising from the duties, imports, and excise, are insufficient for the public exigencies, nor then until Congress shall have made a requisition upon the states to assess, levy, and pay, their respective proportions of such requisitions; and in case any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per centum per annum, from the time of payment prescribed by such requisition.

*Resolved*, That the third section of the sixth article ought to be amended, by inserting the word "other" between the words "no" and "religious."

*Resolved*, That it be a standing instruction to all such delegates as may hereafter be elected to represent this state in the general government, to exert their utmost abilities and influence to effect an alteration of the Constitution, conformably to the foregoing resolutions.

Done in Convention, the 23d day of May, in the year of our Lord 1788, and of the independence of the United States of America the twelfth.

THOMAS PINCKNEY, *President.* [L. s.]

Attest. JOHN SANDFORD DART, *Secretary.*

[L. s.]

### 9. STATE OF NEW HAMPSHIRE.

IN CONVENTION OF THE DELEGATES OF THE PEOPLE OF THE STATE OF  
NEW HAMPSHIRE, June the 21st, 1788.

The Convention having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of

Delegates from the United States of America, and submitted to us by a resolution of the General Court of said state, passed the 14th day of December last past, and acknowledging with grateful hearts the goodness of the Supreme Ruler of the universe in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, — Do, in the name and behalf of the people of the state of New Hampshire, assent to and ratify the said Constitution for the United States of America. And as it is the opinion of this Convention, that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of this state, and more effectually guard against an undue administration of the federal government, — The Convention do therefore recommend that the following alterations and provisions be introduced in the said Constitution : —

I. That it be explicitly declared that all powers not expressly and particularly delegated by the aforesaid Constitution are reserved to the several states, to be by them exercised.

II. That there shall be one representative to every thirty thousand persons, according to the census mentioned in the Constitution, until the whole number of representatives amount to two hundred.

III. That Congress do not exercise the powers vested in them by the fourth section of the first article but in cases when a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress; nor shall Congress in any case make regulations contrary to a free and equal representation.

IV. That Congress do not lay direct taxes but when the moneys arising from impost, excise, and their other resources, are insufficient for the public exigencies, nor then, until Congress shall have first made a requisition upon the states to assess, levy, and pay, their respective proportions of such requisition, agreeably to the census fixed in the said Constitution, in such way and manner as the legislature of the state shall think best; and in such case, if any state shall neglect, then Congress may assess and levy such state's proportion, together with the interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisition.

V. That Congress shall erect no company of merchants with exclusive advantages of commerce.

VI. That no person shall be tried for any crime by which he may incur an infamous punishment, or loss of life, until he first be indicted by a grand jury, except in such cases as may arise in the government and regulation of the land and naval forces.

VII. All common-law cases between citizens of different states shall be commenced in the common-law courts of the respective states; and no appeal shall be allowed to the federal court, in such cases, unless the sum or value of the thing in controversy amount to three thousand dollars.

VIII. In civil actions between citizens of different states, every issue of fact, arising in actions at common law, shall be tried by jury, if the parties, or either of them, request it.

IX. Congress shall at no time consent that any person, holding an office of trust or profit under the United States, shall accept any title of nobility, or any other title or office, from any king, prince, or foreign state.

X. That no standing army shall be kept up in time of peace, unless with the consent of three fourths of the members of each branch of Congress; nor shall soldiers, in time of peace, be quartered upon private houses, without the consent of the owners.

XI. Congress shall make no laws touching religion, or to infringe the rights of conscience.

XII. Congress shall never disarm any citizen, unless such as are or have been in actual rebellion.

And the Convention do, in the name and in behalf of the people of this state, enjoin it upon their representatives in Congress, at all times until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the article.

And that the United States in Congress assembled may have due notice of the assent and ratification of the said Constitution by this Convention, it is *Resolved*,



That the assent and ratification aforesaid be engrossed on parchment, together with the recommendation and injunction aforesaid, and with this resolution; and that John Sullivan, Esq., president of the Convention, and John Langdon, Esq., president of the state, transmit the same, countersigned by the secretary of Convention, and the secretary of state, under their hands and seals, to the United States in Congress assembled

JOHN SULLIVAN, *Pres. of the Conv.* [L. s.]  
JOHN LANGDON, *Pres. of the State.* [L. s.]

By order. { JOHN CALF, *Secretary of Convention,*  
              { JOSEPH PEARSON, *Secretary of State.*

#### 10. VIRGINIA, to wit ·

We, the delegates of the people of Virginia, duly elected in pursuance of a recommendation from the General Assembly, and now met in Convention, having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared as well as the most mature deliberation hath enabled us, to decide thereon, — Do, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them, whensoever the same shall be perverted to their injury or oppression, and that every power not granted thereby remains with them, and at their will; that, therefore, no right, of any denomination, can be cancelled, abridged, restrained, or modified, by the Congress, by the Senate or House of Representatives, acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and that, among other essential rights, the liberty of conscience, and of the press, cannot be cancelled, abridged, restrained, or modified, by any authority of the United States. With these impressions, with a solemn appeal to the Searcher of all hearts for the purity of our intentions, and under the conviction that whatsoever imperfections may exist in the Constitution ought rather to be examined in the mode prescribed therein, than to bring the Union into danger by a delay with a hope of obtaining amendments previous to the ratifications, — We, the said delegates, in the name and in behalf of the people of Virginia, do, by these presents, assent to and ratify the Constitution recommended, on the 17th day of September, 1787, by the Federal Convention, for the government of the United States, hereby announcing to all those whom it may concern, that the said Constitution is binding upon the said people, according to an authentic copy hereto annexed, in the words following. [See *Constitution.*]

Done in Convention, this 26th day of June, 1788.

By order of the Convention.

EDM. PENDLETON, *President.* [L. s.]

[See DEBATES IN CONVENTION, where the Declaration or Bill of Rights, and Amendments, are printed at large.]

#### 11. STATE OF NEW YORK.

We, the delegates of the people of the state of New York, duly elected and met in Convention, having maturely considered the Constitution for the United States of America, agreed to on the 17th day of September, in the year 1787, by the Convention then assembled at Philadelphia, in the commonwealth of Pennsylvania, (a copy whereof precedes these presents,) and having also seriously and deliberately considered the present situation of the United States, — Do declare and make known, —

That all power is originally vested in, and consequently derived from, the people, and that government is instituted by them for their common interest, protection, and security.

That the enjoyment of life, liberty, and the pursuit of happiness, are essential rights, which every government ought to respect and preserve.

That the powers of government may be reassumed by the people whensoever it shall become necessary to their happiness; that every power, jurisdiction, and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the government thereof, remains to the people of the several states, or to their respective state governments, to whom they may have granted the same; and that those clauses in the said Constitution, which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution; but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution.



That the people have an equal, natural, and unalienable right freely and peaceably to exercise their religion, according to the dictates of conscience; and that no religious sect or society ought to be favored or established by law in preference to others.

That the people have a right to keep and bear arms; that a well-regulated militia, including the body of the people *capable of bearing arms*, is the proper, natural, and safe defence of a free state.

That the militia should not be subject to martial law, except in time of war, rebellion, or insurrection.

That standing armies, in time of peace, are dangerous to liberty, and ought not to be kept up, except in cases of necessity; and that at all times the military should be under strict subordination to the civil power.

That, in time of peace, no soldier ought to be quartered in any house without the consent of the owner, and in time of war only by the civil magistrate, in such manner as the laws may direct.

That no person ought to be taken, imprisoned, or disseized of his freehold, or be exiled, or deprived of his privileges, franchises, life, liberty, or property, but by due process of law.

That no person ought to be put twice in jeopardy of life or limb, for one and the same offence; nor, unless in case of impeachment, be punished more than once for the same offence.

That every person restrained of his liberty is entitled to an inquiry into the lawfulness of such restraint, and to a removal thereof if unlawful; and that such inquiry or removal ought not to be denied or delayed, except when, on account of public danger, the Congress shall suspend the privilege of the writ of *habeas corpus*.

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

That (except in the government of the land and naval forces, and of the militia when in actual service, and in cases of impeachment) a presentment or indictment by a grand jury ought to be observed as a necessary preliminary to the trial of all crimes cognizable by the judiciary of the United States; and such trial should be speedy, public, and by an impartial jury of the county where the crime was committed; and that no person can be found guilty without the unanimous consent of such jury. But in cases of crimes not committed within any county of any of the United States, and in cases of crimes committed within any county in which a general insurrection may prevail, or which may be in the possession of a foreign enemy, the inquiry and trial may be in such county as the Congress shall by law direct; which county, in the two cases last mentioned, should be as near as conveniently may be to that county in which the crime may have been committed;—and that, in all criminal prosecutions, the accused ought to be informed of the cause and nature of his accusation, to be confronted with his accusers and the witnesses against him, to have the means of producing his witnesses, and the assistance of counsel for his defence; and should not be compelled to give evidence against himself.

That the trial by jury, in the extent that it obtains by the common law of England, is one of the greatest securities to the rights of a free people, and ought to remain inviolate.

That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers, or his property; and therefore, that all warrants to search suspected places, or seize any freeman, his papers, or property, without information, upon oath or affirmation, of sufficient cause, are grievous and oppressive; and that all general warrants (or, such in which the place or person suspected are not particularly designated) are dangerous, and ought not to be granted.

That the people have a right peaceably to assemble together to consult for their common good, or to instruct their representatives, and that every person has a right to petition or apply to the legislature for redress of grievances.

That the freedom of the press ought not to be violated or restrained.

That there should be, once in four years, an election of the President and Vice-President, so that no officer, who may be appointed by the Congress to act as President, in case of the removal, death, resignation, or inability, of the President and Vice-President, can in any case continue to act beyond the termination of the period for which the last President and Vice-President were elected.

That nothing contained in the said Constitution is to be construed to prevent the legislature of any state from passing laws at its discretion, from time to time, to divide such state into convenient districts, and to apportion its representatives to and amongst such districts.

That the prohibition contained in the said Constitution, against *ex post facto* laws extends only to laws concerning crimes.

That all appeals in causes determinable according to the course of the common law, ought to be by writ of error, and not otherwise.

That the judicial power of the United States, in cases in which a state may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a state.

That the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants from different states, is not to be construed to extend to any other controversies between them, except those which relate to such lands, so claimed, under grants of different states.

That the jurisdiction of the Supreme Court of the United States, or of any other court to be instituted by the Congress, is not in any case to be increased, enlarged, or extended, by any faction, collusion, or mere suggestion; and that no treaty is to be construed so to operate as to alter the Constitution of any state.

Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said Constitution, and in confidence that the amendments which shall have been proposed to the said Constitution will receive an early and mature consideration, — We, the said delegates, in the name and in the behalf of the people of the state of New York, do, by these presents, assent to and ratify the said Constitution. In full confidence, nevertheless, that, until a convention shall be called and convened for proposing amendments to the said Constitution, the militia of this state will not be continued in service out of this state for a longer term than six weeks, without the consent of the legislature thereof; that the Congress will not make or alter any regulation in this state, respecting the times, places, and manner, of holding elections for senators or representatives, unless the legislature of this state shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that, in those cases, such power will only be exercised until the legislature of this state shall make provision in the premises; that no excise will be imposed on any article of the growth, production, or manufacture of the United States, or any of them, within this state, ardent spirits excepted; and the Congress will not lay direct taxes within this state, but when the moneys arising from the impost and excise shall be insufficient for the public exigencies, nor then, until Congress shall first have made a requisition upon this state to assess, levy, and pay, the amount of such requisition, made agreeably to the census fixed in the said Constitution, in such way and manner as the legislature of this state shall judge best; but that in such case, if the state shall neglect or refuse to pay its proportion, pursuant to such requisition, then the Congress may assess and levy this state's proportion, together with interest, at the rate of six per centum per annum, from the time at which the same was required to be paid.

Done in Convention, at Poughkeepsie, in the county of Dutchess, in the state of New York, the 26th day of July, in the year of our Lord 1788.

By order of the Convention.

GEO. CLINTON, *President*.

Attested. JOHN M'KESSON, A. B. BANKER, *Secretaries*.

And the Convention do, in the name and behalf of the people of the state of New York, enjoin it upon their representatives in Congress to exert all their influence, and use all reasonable means, to obtain a ratification of the following amendments to the said Constitution, in the manner prescribed therein; and in all laws to be passed by the Congress, in the mean time, to conform to the spirit of the said amendments, as far as the Constitution will admit.

That there shall be one representative for every thirty thousand inhabitants, according to the enumeration or census mentioned in the Constitution, until the whole number of representatives amounts to two hundred, after which that number shall be continued or increased, but not diminished, as the Congress shall direct, and according to such ratio as the Congress shall fix, in conformity to the rule prescribed for the apportionment of representatives and direct taxes.

That the Congress do not impose any excise on any article (ardent spirits excepted) of the growth, production, or manufacture of the United States, or any of them.

That Congress do not lay direct taxes but when the moneys arising from the impost and excise shall be insufficient for the public exigencies, nor then, until Congress shall first have made a requisition upon the states to assess, levy, and pay, their respective proportions of such requisition, agreeably to the census fixed in the said Constitution, in such way and manner as the legislatures of the respective states shall judge best; and in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest at the rate of six per centum per annum, from the time of payment prescribed in such requisition.

That the Congress shall not make or alter any regulation, in any state, respecting

the times, places, and manner, of holding elections for senators and representatives, unless the legislature of such state shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the legislature of such state shall make provision in the premises; provided, that Congress may prescribe the time for the election of representatives.

That no persons, except natural-born citizens, or such as were citizens on or before the 4th day of July, 1776, or such as held commissions under the United States during the war, and have at any time since the 4th day of July, 1776, become citizens of one or other of the United States, and who shall be freeholders, shall be eligible to the places of President, Vice-President, or members of either house of the Congress of the United States.

That the Congress do not grant monopolies, or erect any company with exclusive advantages of commerce.

That no standing army or regular troops shall be raised, or kept up, in time of peace, without the consent of two thirds of the senators and representatives present in each house.

That no money be borrowed on the credit of the United States without the assent of two thirds of the senators and representatives present in each house.

That the Congress shall not declare war without the concurrence of two thirds of the senators and representatives present in each house.

That the privilege of the *habeas corpus* shall not, by any law, be suspended for a longer term than six months, or until twenty days after the meeting of the Congress next following the passing the act for such suspension.

That the right of Congress to exercise exclusive legislation over such district, not exceeding ten miles square, as may, by cession of a particular state, and the acceptance of Congress, become the seat of government of the United States, shall not be so exercised as to exempt the inhabitants of such district from paying the like taxes, imposts, duties, and excises, as shall be imposed on the other inhabitants of the state in which such district may be; and that no person shall be privileged within the said district from arrest for crimes committed, or debts contracted, out of the said district.

That the right of exclusive legislation, with respect to such places as may be purchased for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings, shall not authorize the Congress to make any law to prevent the laws of the states, respectively, in which they may be, from extending to such places in all civil and criminal matters, except as to such persons as shall be in the service of the United States; nor to them with respect to crimes committed without such places.

That the compensation for the senators and representatives be ascertained by standing laws; and that no alteration of the existing rate of compensation shall operate for the benefit of the representatives until after a subsequent election shall have been had.

That the Journals of the Congress shall be published at least once a year, with the exception of such parts, relating to treaties or military operations, as, in the judgment of either house, shall require secrecy; and that both houses of Congress shall always keep their doors open during their sessions, unless the business may, in their opinion, require secrecy. That the yeas and nays shall be entered on the Journals whenever two members in either house may require it.

That no capitation tax shall ever be laid by Congress.

That no person be eligible as a senator for more than six years in any term of twelve years; and that the legislatures of the respective states may recall their senators, or either of them, and elect others in their stead, to serve the remainder of the time for which the senators so recalled were appointed.

That no senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States.

That the authority given to the executives of the states to fill up the vacancies of senators be abolished, and that such vacancies be filled by the respective legislatures.

That the power of Congress to pass uniform laws concerning bankruptcy shall only extend to merchants and other traders; and the states, respectively, may pass laws for the relief of other insolvent debtors.

That no person shall be eligible to the office of President of the United States a third time.

That the executive shall not grant pardons for treason, unless with the consent of the Congress; but may, at his discretion, grant reprieves to persons convicted of treason, until their cases can be laid before the Congress.

That the President, or person exercising his powers for the time being, shall not command an army in the field in person, without the previous desire of the Congress.

That all letters patent, commissions, pardons, writs, and processes of the United States, shall run in the name of the *people of the United States*, and be tested in the name of the President of the United States, or the person exercising his powers for the



time being, or the first judge of the court out of which the same shall issue, as the case may be.

That the Congress shall not constitute, ordain, or establish, any tribunals of inferior courts, with any other than appellate jurisdiction, except such as may be necessary for the trial of cases of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; and in all other cases to which the judicial power of the United States extends, and in which the Supreme Court of the United States has not original jurisdiction, the causes shall be heard, tried, and determined, in some one of the state courts, with the right of appeal to the Supreme Court of the United States, or other proper tribunal, to be established for that purpose by the Congress, with such exceptions, and under such regulations, as the Congress shall make.

That the court for the trial of impeachments shall consist of the Senate, the judges of the Supreme Court of the United States, and the first or senior judge, for the time being, of the highest court of general and ordinary common-law jurisdiction in each state; that the Congress shall, by standing laws, designate the courts in the respective states answering this description, and, in states having no courts exactly answering this description, shall designate some other court, preferring such, if any there be, whose judge or judges may hold their places during good behavior; provided, that no more than one judge, other than judges of the Supreme Court of the United States, shall come from one state.

That the Congress be authorized to pass laws for compensating the judges for such services, and for compelling their attendance; and that a majority, at least, of the said judges shall be requisite to constitute the said court. That no person impeached shall sit as a member thereof; that each member shall, previous to the entering upon any trial, take an oath or affirmation honestly and impartially to hear and determine the cause; and that a majority of the members present shall be necessary to a conviction.

That persons aggrieved by any judgment, sentence, or decree, of the Supreme Court of the United States, in any cause in which that court has original jurisdiction, with such exceptions, and under such regulations, as the Congress shall make concerning the same, shall, upon application, have a commission, to be issued by the President of the United States to such men learned in the law as he shall nominate, and by and with the advice and consent of the Senate appoint, not less than seven, authorizing such commissioners, or any seven or more of them, to correct the errors in such judgment, or to review such sentence and decree, as the case may be, and to do justice to the parties in the premises.

That no judge of the Supreme Court of the United States shall hold any other office under the United States, or any of them.

That the judicial power of the United States shall extend to no controversies respecting land, unless it relate to claims of territory or jurisdiction between states, and individuals under the grants of different states.

That the militia of any state shall not be compelled to serve without the limits of the state, for a longer term than six weeks, without the consent of the legislature thereof.

That the words *without the consent of the Congress*, in the seventh clause of the ninth section of the first article of the Constitution, be expunged.

That the senators and representatives, and all executive and judicial officers of the United States, shall be bound by oath or affirmation not to infringe or violate the constitutions or rights of the respective states.

That the legislatures of the respective states may make provision, by law, that the electors of the election districts, to be by them appointed, shall choose a citizen of the United States, who shall have been an inhabitant of such district for the term of one year immediately preceding the time of his election, for one of the representatives of such state.

Done in Convention, at Poughkeepsie, in the county of Dutchess, in the state of New York, the 26th day of July, in the year of our Lord 1788.

By order of the Convention. GEO. CLINTON, *President*.

Attested. JOHN M'KESSON, AB. B. BANKER, *Secretaries*.

## 12. STATE OF NORTH CAROLINA.

IN CONVENTION, *August 1, 1788.*

*Resolved*, That a declaration of rights, asserting and securing from encroachments the great principles of civil and religious liberty, and the unalienable rights of the



people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of government, ought to be laid before Congress, and the convention of the states that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid, on the part of the state of North Carolina. SAM. JOHNSON.

By order. J. HUNT, *Secretary*.

[See DEBATES, where the declaration on ratifying the Constitution is published at large.]

The above are the *proceedings of the Convention of the twelve states* which had been represented in the General Convention. The ratification of New Hampshire, being the ninth in order, was received by Congress on the 2d of July, 1788. The following is an extract from the Journal of that day:—

UNITED STATES IN CONGRESS ASSEMBLED.

WEDNESDAY, July 2, 1788.

The state of New Hampshire having ratified this Constitution, transmitted to them by the act of the 28th of September last, and transmitted to Congress their ratification, and the same being read, the president reminded Congress that this was the ninth ratification transmitted and laid before them; whereupon, —

On motion of Mr. Clarke, seconded by Mr. Edwards, —

*Ordered*, That the ratifications of the Constitution of the United States, transmitted to Congress, be referred to a committee to examine the same, and report an act to Congress for putting the said Constitution into operation, in pursuance of the resolutions of the late Federal Convention.

On the question to agree to this order, the yeas and nays being required by Mr. Yates:—

<i>New Hampshire</i> ,.....	Mr. Gilman, .....	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Wingate,.....	<i>Ay.</i>	
<i>Massachusetts</i> ,.....	Mr. Dane, .....	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Otis,.....	<i>Ay.</i>	
<i>Rhode Island</i> ,.....	Mr. Arnold, .....		} <i>Excused.</i>
	Mr. Hazard,.....		
<i>Connecticut</i> ,.....	Mr. Huntington,.....	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Edwards, .....	<i>Ay.</i>	
<i>New York</i> ,.....	Mr. L'Hommedieu, .....	<i>Ay.</i>	} <i>Divided.</i>
	Mr. Yates, .....	<i>No.</i>	
<i>New Jersey</i> ,.....	Mr. Clarke, .....	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Elmer,.....	<i>Ay.</i>	
	Mr. Dayton,.....	<i>Ay.</i>	
<i>Pennsylvania</i> ,.....	Mr. Bingham, .....	<i>Ay.</i>	} <i>Ay.</i>
	Mr. Read,.....	<i>Ay.</i>	
<i>Maryland</i> , .....	Mr. Contee, .....	<i>Ay.</i>	} <i>Ay.</i>
<i>Virginia</i> ,.....	Mr. Griffin, .....	<i>Ay.</i>	
	Mr. Carrington,.....	<i>Ay.</i>	
	Mr. Brown,.....	<i>Ay.</i>	} <i>Ay.</i>
<i>South Carolina</i> ,.....	Mr. Huger,.....	<i>Ay.</i>	
	Mr. Parker,.....	<i>Ay.</i>	
	Mr. Tucker,.....	<i>Ay.</i>	} <i>Ay.</i>
<i>Georgia</i> ,.....	Mr. Few, .....	<i>Ay.</i>	
	Mr. Baldwin,.....	<i>Ay.</i>	

So it passed in the affirmative.

On the 14th of July, 1788, the committee reported an act

for putting the Constitution into operation, which was debated until the 13th of September of the same year, when the following resolution was adopted:—

“Whereas the Convention assembled in Philadelphia, pursuant to the resolution of Congress of the 21st of February, 1787, did, on the 17th of September, in the same year, report to the United States in Congress assembled a Constitution for the people of the United States; whereupon Congress, on the 28th of the same September, did resolve, unanimously, ‘That the said report, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a convention of delegates, chosen in each state by the people thereof, in conformity to the resolves of the Convention made and provided in that case;’ and whereas the Constitution so reported by the Convention, and by Congress transmitted to the several legislatures, has been ratified in the manner therein declared to be sufficient for the establishment of the same, and such ratifications, duly authenticated, have been received by Congress, and are filed in the office of the secretary; therefore,—

“*Resolved*, That the first Wednesday in January next be the day for appointing electors in the several states which, before the said day, shall have ratified the said Constitution; that the first Wednesday in February next be the day for the electors to assemble in their respective states, and vote for a President: and that the first Wednesday in March next be the time, and the present seat of Congress the place, for commencing proceedings under the said Constitution.”

The elections of the several states were held conformably to the above resolution. On Wednesday the 4th of March, 1789, proceedings commenced under the Constitution; and on the 30th of April, of the same year, GEORGE WASHINGTON, elected by the unanimous suffrage of the electors, was inaugurated as President of the United States.

On the 11th of January, 1790, the following ratification of the Constitution, by the state of North Carolina, was communicated by President Washington to both houses of Congress:—

## STATE OF NORTH CAROLINA.

## IN CONVENTION.

Whereas the General Convention which met in Philadelphia, in pursuance of a recommendation of Congress, did recommend to the citizens of the United States a Constitution or form of government in the following words, namely,—

“We, the people,” &c. [Here follows the Constitution of the United States, *verbatim*.]

*Resolved*, That this Convention, in behalf of the freemen, citizens and inhabitants of the state of North Carolina, do adopt and ratify the said Constitution and form of government.

Done in Convention this twenty-first day of November, one thousand seven hundred and eighty-nine.

(Signed)

SAMUEL JOHNSON,

*President of the Convention.*

J. HUNT, JAMES TAYLOR, *Secretaries.*

On the 16th of June, 1790, the following ratification by the state of Rhode Island was communicated to Congress:—

## 13. RHODE ISLAND.

[The Constitution of the United States of America precedes the following ratification.]

*Ratification of the Constitution by the Convention of the State of Rhode Island and Providence Plantations.*

We, the delegates of the people of the state of Rhode Island and Providence Plantations, duly elected and met in Convention, having maturely considered the Constitution for the United States of America, agreed to on the seventeenth day of September, in the year one thousand seven hundred and eighty-seven, by the Convention then assembled at Philadelphia, in the commonwealth of Pennsylvania, (a copy whereof precedes these presents,) and having also seriously and deliberately considered the present situation of this state, do declare and make known,—

I. That there are certain natural rights of which men, when they form a social compact, cannot deprive or divest their posterity,—among which are the enjoyment of life and liberty, with the means of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

II. That all power is naturally vested in, and consequently derived from, the people; that magistrates, therefore, are their trustees and agents, and at all times amenable to them.

III. That the powers of government may be reassumed by the people whensoever it shall become necessary to their happiness. That the rights of the states respectively to nominate and appoint all state officers, and every other power, jurisdiction, and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or to the departments of government thereof, remain to the people of the several states, or their respective state governments, to whom they may have granted the same; and that those clauses in the Constitution which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution; but such clauses are to be construed as exceptions to certain specified powers, or as inserted merely for greater caution.

IV. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, and not by force and violence; and therefore all men have a natural, equal, and unalienable right to the exercise of religion according to the dictates of conscience; and that no particular religious sect or society ought to be favored or established, by law, in preference to others.

V. That the legislative, executive, and judiciary powers of government should be separate and distinct; and, that the members of the two first may be restrained from oppression, by feeling and participating the public burdens, they should, at fixed periods, be reduced to a private station, returned into the mass of the people, and the vacancies be supplied by certain and regular elections, in which all or any part of the former members to be eligible or ineligible, as the rules of the constitution of government and the laws shall direct.

VI. That elections of representatives in legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to, the community, ought to have the right of suffrage; and no aid, charge, tax, or fee, can be set, rated, or levied, upon the people without their own consent, or that of their representatives so elected, nor can they be bound by any law to which they have not in like manner consented for the public good.

VII. That all power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people in the legislature, is injurious to their rights, and ought not to be exercised.

VIII. That, in all capital and criminal prosecutions, a man hath the right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence, and be allowed counsel in his favor, and to a fair and speedy trial by an impartial jury in his vicinage, without whose unanimous consent he cannot be found guilty, (except in the government of the land and naval forces,) nor can he be compelled to give evidence against himself.

IX. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, privileges, or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the trial by jury, or by the law of the land.

X. That every freeman restrained of his liberty is entitled to a remedy, to inquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed.

XI. That in controversies respecting property, and in suits between man and man, the ancient trial by jury, as hath been exercised by us and our ancestors, from the



time whereof the memory of man is not to the contrary is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolable.

XII. That every freeman ought to obtain right and justice, freely and without sale, completely and without denial, promptly and without delay; and that all establishments or regulations contravening these rights are oppressive and unjust.

XIII. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

XIV. That every person has a right to be secure from all unreasonable searches and seizures of his person, his papers, or his property; and therefore, that all warrants to search suspected places, to seize any person, his papers, or his property, without information upon oath or affirmation of sufficient cause, are grievous and oppressive; and that all general warrants (or such in which the place or person suspected are not particularly designated) are dangerous, and ought not to be granted.

XV. That the people have a right peaceably to assemble together to consult for their common good, or to instruct their representatives; and that every person has a right to petition or apply to the legislature for redress of grievances.

XVI. That the people have a right to freedom of speech, and of writing and publishing their sentiments. That freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

XVII. That the people have a right to keep and bear arms; that a well-regulated militia, including the body of the people capable of bearing arms, is the proper, natural, and safe defence of a free state; that the militia shall not be subject to martial law, except in time of war, rebellion, or insurrection; that standing armies, in time of peace, are dangerous to liberty, and ought not to be kept up, except in cases of necessity; and that, at all times, the military should be under strict subordination to the civil power; that, in time of peace, no soldier ought to be quartered in any house without the consent of the owner, and in time of war only by the civil magistrates, in such manner as the law directs.

XVIII. That any person religiously scrupulous of bearing arms ought to be exempted upon payment of an equivalent to employ another to bear arms in his stead.

Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said Constitution, and in confidence that the amendments hereafter mentioned will receive an early and mature consideration, and, conformably to the fifth article of said Constitution, speedily become a part thereof, — We, the said delegates, in the name and in the behalf of the people of the state of Rhode Island and Providence Plantations, do, by these presents, assent to and ratify the said Constitution. In full confidence, nevertheless, that, until the amendments hereafter proposed and undermentioned shall be agreed to and ratified, pursuant to the aforesaid fifth article, the militia of this state will not be continued in service out of this state, for a longer term than six weeks, without the consent of the legislature thereof; that the Congress will not make or alter any regulation in this state respecting the times, places, and manner, of holding elections for senators or representatives, unless the legislature of this state shall neglect or refuse to make laws or regulations for the purpose, or, from any circumstance, be incapable of making the same; and that, in those cases, such power will only be exercised until the legislature of this state shall make provision in the premises; that the Congress will not lay direct taxes within this state, but when the moneys arising from impost, tonnage, and excise, shall be insufficient for the public exigencies, nor until the Congress shall have first made a requisition upon this state to assess, levy, and pay, the amount of such requisition made agreeable to the census fixed in the said Constitution, in such way and manner as the legislature of this state shall judge best; and that Congress will not lay any capitation or poll tax.

Done in Convention, at Newport, in the county of Newport, in the state of Rhode Island and Providence Plantations, the twenty-ninth day of May, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the independence of the United States of America.

By order of the Convention.

(Signed) DANIEL OWEN, *President*.

Attest. DANIEL UPDIKE, *Secretary*.

And the Convention do, in the name and behalf of the people of the state of Rhode Island and Providence Plantations, enjoin it upon their senators and representative or representatives, which may be elected to represent this state in Congress, to exert all their influence, and use all reasonable means, to obtain a ratification of the following amendments to the said Constitution, in the manner prescribed therein; and in all laws to be passed by the Congress in the mean time, to conform to the spirit of the said amendments, as far as the Constitution will admit.



## AMENDMENTS.

I. The United States shall guaranty to each state its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Constitution expressly delegated to the United States

II. That Congress shall not alter, modify, or interfere in, the times, places, or manner, of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse, or be disabled, by invasion or rebellion, to prescribe the same, or in case when the provision made by the state is so imperfect as that no consequent election is had, and then only until the legislature of such state shall make provision in the premises.

III. It is declared by the Convention, that the judicial power of the United States, in cases in which a state may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a state; but, to remove all doubts or controversies respecting the same, that it be especially expressed, as a part of the Constitution of the United States, that Congress shall not, directly or indirectly, either by themselves or through the judiciary, interfere with any one of the states, in the redemption of paper money already emitted, and now in circulation, or in liquidating and discharging the public securities of any one state; that each and every state shall have the exclusive right of making such laws and regulations for the before-mentioned purpose as they shall think proper.

IV. That no amendments to the Constitution of the United States, hereafter to be made, pursuant to the fifth article, shall take effect, or become a part of the Constitution of the United States, after the year one thousand seven hundred and ninety-three, without the consent of eleven of the states heretofore united under the Confederation.

V. That the judicial powers of the United States shall extend to no possible case where the cause of action shall have originated before the ratification of this Constitution, except in disputes between states about their territory, disputes between persons claiming lands under grants of different states, and debts due to the United States.

VI. That no person shall be compelled to do military duty otherwise than by voluntary enlistment, except in cases of general invasion; any thing in the second paragraph of the sixth article of the Constitution, or any law made under the Constitution, to the contrary notwithstanding.

VII. That no capitation or poll tax shall ever be laid by Congress.

VIII. In cases of direct taxes, Congress shall first make requisitions on the several states to assess, levy, and pay, their respective proportions of such requisitions, in such way and manner as the legislatures of the several states shall judge best; and in case any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest, at the rate of six per cent. per annum, from the time prescribed in such requisition.

IX. That Congress shall lay no direct taxes without the consent of the legislatures of three fourths of the states in the Union.

X. That the Journal of the proceedings of the Senate and House of Representatives shall be published as soon as conveniently may be, at least once in every year; except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy.

XI. That regular statements of the receipts and expenditures of all public moneys shall be published at least once a year.

XII. As standing armies, in time of peace, are dangerous to liberty, and ought not to be kept up, except in cases of necessity, and as, at all times, the military should be under strict subordination to the civil power, that, therefore, no standing army or regular troops shall be raised or kept up in time of peace.

XIII. That no moneys be borrowed, on the credit of the United States, without the assent of two thirds of the senators and representatives present in each house.

XIV. That the Congress shall not declare war without the concurrence of two thirds of the senators and representatives present in each house.

XV. That the words "without the consent of Congress," in the seventh clause in the ninth section of the first article of the Constitution, be expunged.

XVI. That no judge of the Supreme Court of the United States shall hold any other office under the United States, or any of them; nor shall any officer appointed by Congress, or by the President and Senate of the United States, be permitted to hold any office under the appointment of any of the states

XVII. As a traffic tending to establish or continue the slavery of any part of the human species is disgraceful to the cause of liberty and humanity, that Congress shall, as soon as may be, promote and establish such laws and regulations as may effectually prevent the importation of slaves of every description into the United States.

XVIII. That the state legislatures have power to recall, when they think it expedient, their federal senators, and to send others in their stead.

XIX. That Congress have power to establish a uniform rule of inhabitaney or settlement of the poor of the different states throughout the United States.

XX. That Congress erect no company with exclusive advantages of commerce.

XXI. That when two members shall move and call for the ayes and nays on any question, they shall be entered on the Journals of the houses respectively.

Done in Convention, at Newport, in the county of Newport, in the state of Rhode Island and Providence Plantations, the twenty-ninth day of May, in the year of our Lord one thousand seven hundred and ninety, and the 14th year of the independence of the United States of America.

By order of the Convention.

(Signed)

DANIEL OWEN, *President*

Attest. DANIEL UPDIKE, *Secretary*.

On the 9th of February, 1791, the following acts of the state of Vermont, relating to the Constitution, were communicated to Congress: —

#### 14. STATE OF VERMONT.

*An Act to authorize the People of this State to meet in Convention, to deliberate upon and agree to the Constitution of the United States.*

Whereas, in the opinion of this legislature, the future interest and welfare of this state render it necessary that the Constitution of the United States of America, as agreed to by the Convention at Philadelphia, on the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, with the several amendments and alterations, as the same has been established by the United States, should be laid before the people of this state for their approbation, —

It is hereby enacted, by the General Assembly of the state of Vermont, That the first constable in each town shall warn the inhabitants, who, by law, are entitled to vote for representatives in General Assembly, in the same manner as they warn free men's meetings, to meet in their respective towns on the first Tuesday of December next, at ten o'clock, forenoon, at the several places fixed by law for holding the annual election; and when so met they shall proceed, in the same manner as in the election of representatives, to choose some suitable person, from each town, to serve as a delegate in a state convention, for the purpose of deliberating upon and agreeing to the Constitution of the United States as now established; and the said constable shall certify to the said convention the person so chosen in the manner aforesaid. And,

It is hereby further enacted, by the authority aforesaid, That the persons so elected to serve in state convention, as aforesaid, do assemble and meet together on the first Thursday of January next, at Bennington, then and there to deliberate upon the aforesaid Constitution of the United States, and if approved of by them, finally to assent to and ratify the same, in behalf and on the part of the people of this state, and make report thereof to the governor of this state for the time being, to be by him communicated to the President of the United States, and the legislature of this state.

STATE OF VERMONT. Secretary's Office, Bennington, Jan. 21, 1791.

The preceding is a true copy of an act passed by the legislature of the state of Vermont, the twenty-seventh day of October, in the year of our Lord one thousand seven hundred and ninety.

ROSWELL HOPKINS, *Secretary of State*

#### IN CONVENTION OF THE DELEGATES OF THE PEOPLE OF THE STATE OF VERMONT.

Whereas, by an act of the commissioners of the state of New York, done at New York, the seventeenth day of October, in the fifteenth year of the independence of the United States of America, one thousand seven hundred and ninety, every impediment, as well on the part of the state of New York as on the part of the state of Vermont, to the admission of the state of Vermont into the Union of the United States of America, is removed; in full faith and assurance that the same will stand approved and ratified by Congress, —

This Convention, having impartially deliberated upon the Constitution of the United States of America, as now established, submitted to us by an act of the General Assembly of the state of Vermont, passed October the twenty-seventh, one thousand

seven hundred and ninety,—Do, in virtue of the power and authority to us given for that purpose, fully and entirely approve of, assent to, and ratify, the said Constitution; and declare that, immediately from and after this state shall be admitted by the Congress into the Union, and to a full participation of the benefits of the government now enjoyed by the states in the Union, the same shall be binding on us, and the people of the state of Vermont, forever.

Done at Bennington, in the county of Bennington, the tenth day of January, in the fifteenth year of the independence of the United States of America, one thousand seven hundred and ninety-one.

In testimony whereof, we have hereunto subscribed our names.

(Signed)

THOMAS CHITTENDEN, *President.*

Signed by one hundred and five members — dissented four.

Attest. ROSWELL HOPKINS, *Secretary of Convention.*

At the first session of the first Congress under the Constitution, the following resolution was adopted:—

“CONGRESS OF THE UNITED STATES;

“*Begun and held at the City of New York, on Wednesday, the 4th of March, 1789.*

“The conventions of a number of the states having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the government will best insure the beneficent ends of its institution;—

“*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both houses concurring, that the following articles be proposed to the legislatures of the several states, as amendments to the Constitution of the United States, all or any of which articles, when ratified by three fourths of the said legislatures, to be valid, to all intents and purposes, as part of the said Constitution, namely,—*

“*Articles in Addition to, and Amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the Fifth Article of the original Constitution.*

“ART. I. After the first enumeration required by the first article of the Constitution, there shall be one representative for every thirty thousand, until the number shall amount to one hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than one hundred representatives, nor less than one representative for every forty thousand persons, until the number of representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred representatives, nor more than one representative for every fifty thousand.

“ART. II. No law varying the compensation for services of the senators and representatives shall take effect, until an election of representatives shall have intervened.

“ART. III. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.



“ART. IV. A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

“ART. V. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner prescribed by law.

“ART. VI. The right of the people to be secure in their persons, houses, papers, effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon principal cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

“ART. VII. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

“ART. VIII. In all criminal prosecutions, the accused shall enjoy the right of a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

“ART. IX. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined, in any court of the United States, than according to the rules in common law.

“ART. X. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

“ART. XI. The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

“ART. XII. The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.

“FREDERICK AUGUSTUS MUHLENBERG,  
*Speaker of the House of Representatives.*

“JOHN ADAMS, *Vice-President of the United States,*  
*and President of the Senate.*

“Attest. JOHN BECKLEY, *Clerk of the House of Representatives.*

“SAMUEL A. OTIS, *Secretary of the Senate.*”

Which, being transmitted to the several state legislatures, were decided upon by them, according to the following returns: —

*By the State of New Hampshire.* — Agreed to the whole of the said amendments, except the 2d article.

*By the State of New York.* — Agreed to the whole of the said amendments, except the 2d article.

*By the State of Pennsylvania.* — Agreed to the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, and 12th articles of the said amendments.



*By the State of Delaware.* — Agreed to the whole of the said amendments, except the 1st article.

*By the State of Maryland.* — Agreed to the whole of the said twelve amendments.

*By the State of South Carolina.* — Agreed to the whole said twelve amendments.

*By the State of North Carolina.* — Agreed to the whole of the said twelve amendments.

*By the State of Rhode Island and Providence Plantations.* — Agreed to the whole of the said twelve articles.

*By the State of New Jersey.* — Agreed to the whole of the said amendments, except the second article.

*By the State of Virginia.* — Agreed to the whole of the said twelve articles.

No returns were made by the states of Massachusetts, Connecticut, Georgia, and Kentucky.

The amendments thus proposed became a part of the Constitution, the first and second of them excepted, which were not ratified by a sufficient number of the state legislatures.

At the first session of the third Congress, the following amendment was proposed to the state legislatures : —

“ UNITED STATES IN CONGRESS ASSEMBLED.

“ *Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* two thirds of both houses concurring, That the following article be proposed to the legislatures of the several states, as an amendment to the Constitution of the United States ; which, when ratified by three fourths of the said legislatures, shall be valid as part of the said Constitution, namely, —

“ The judicial power of the United States shall not be construed to extend to any suit in, law or equity, commenced or prosecuted against one of the United States, by citizens of another state, or by citizens or subjects of any foreign state.”

“ FREDERICK AUGUSTUS MUHLENBERG,  
*Speaker of the House of Representatives.*

“ JOHN ADAMS, *Vice-President of the United States,*  
*and President of the Senate.*

“ Attest. J. BECKLEY, *Clerk of the House of Representatives.*

“ SAM. A. OTIS, *Secretary of the Senate.*”

From the Journals of the House of Representatives, at the second session of the third Congress, it appears that returns from the state legislatures, ratifying this amendment, were received, as follows : —

From New York, Massachusetts, Vermont, New Hampshire, Georgia, and Delaware.

At the first session of the fourth Congress, further returns, ratifying the same amendment, were received from Rhode Island and North Carolina.

At the second session of the fourth Congress, on the 2d of March, 1787, the following resolution was adopted:—

“UNITED STATES IN CONGRESS ASSEMBLED.

“Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be requested to adopt some speedy and effectual means of obtaining information from the states of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the Constitution concerning the suability of states; if they have, to obtain the proper evidence thereof.

“JONATHAN DAYTON, *Speaker of the House of Representatives.*

“WILLIAM BINGHAM, *President, pro tempore, of the Senate.*

“Approved, March 2, 1797.

“GEORGE WASHINGTON, *President of the United States.*”

At the second session of the fifth Congress, the following message from the President of the United States was transmitted to both houses:—

From a report of the secretary of state, made under the direction of President Adams, on the 28th December, 1797, it appeared that the states of Connecticut, Maryland, and Virginia, had ratified the amendment; that New Jersey and Pennsylvania had not ratified it; South Carolina had not definitely acted upon it. No answers had been received from Kentucky and Tennessee.

MESSAGE.

“Gentlemen of the Senate, and Gentlemen of the House of Representatives:—

“I have an opportunity of transmitting to Congress a report of the secretary of state, with a copy of an act of the legislature of the state of Kentucky, consenting to the ratification of the amendment of the Constitution of the United States proposed by Congress, in their resolution of the second day of December, 1793, relative to the suability of states. This amendment having been adopted by three fourths of the several states, may now be declared to be a part of the Constitution of the United States.

“UNITED STATES, *January 8, 1798.*

JOHN ADAMS.”

At the first session of the eighth Congress, the following amendment was proposed by Congress to the state legislatures:—

“EIGHTH CONGRESS OF THE UNITED STATES.

*At the First Session, begun and held at the City of Washington, in the Territory of Columbia, on Monday, the seventeenth of October, one thousand eight hundred and three.*

“Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both houses con-

curing, That in J'eu of the third paragraph of the first section of the second article of the Constitution of the United States, — which, when ratified by three fourths of the legislatures of the several states, shall be valid to all intents and purposes, as part of the said Constitution, to wit, —

“ The electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

“ The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President. A quorum for that purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

“ But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.’

“ Attest. JOHN BECKLEY, *Clerk of the House of Rep's of the U. States.*

“ SAM. A. OTIS, *Secretary to the Senate of the United States.*”

At the same session, an act passed, of which the following is the 1st section: —

“ *An Act supplementary to an Act, entitled An Act relative to the Election of a President and Vice-President of the United States, and declaring the Officer who shall act as President, in Case of Vacancies in the Offices both of President and Vice-President.*

“ *Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That, whenever the amendment proposed, during the present session of Congress, to the Constitution of the United States, respecting the manner of voting for Presi-*

dent and Vice-President of the United States, shall have been ratified by the legislatures of three fourths of the several states, the secretary of state shall forthwith cause a notification thereof to be made to the executive of every state, and shall also cause the same to be published in at least one of the newspapers printed in each state, in which the laws of the United States are annually published. The executive authority of each state shall cause a transcript of the said notification to be delivered to the electors appointed for that purpose, who shall first thereafter meet in such state, for the election of a President and Vice-President of the United States; and whenever the said electors shall have received the said transcript of notification, or whenever they shall meet more than five days subsequent to the publication of the above-mentioned amendment, in one of the newspapers of the state, by the secretary of state, they shall vote for President and Vice-President of the United States, respectively, in the manner directed by the above-mentioned amendment; and, having made and signed three certificates of all the votes given by them, each of which certificates shall contain two distinct lists, — one, of the votes given for President, and the other, of the votes given for Vice-President, — they shall seal up the said certificates, certifying on each that lists of all the votes of such state given for President, and of all the votes given for Vice-President, are contained therein, and shall cause the said certificates to be transmitted and disposed of, and in every other respect act in conformity with the provisions of the act to which this is a supplement. And every other provision of the act to which this is a supplement, and which is not virtually repealed by this act, shall extend and apply to every election of a President and Vice-President of the United States, made in conformity to the above-mentioned amendment to the Constitution of the United States."

And on the 25th of September, 1804, the following notice, in pursuance of the above provision, was issued from the state department: —

*"By James Madison, Secretary of State of the United States.*

"Public notice is hereby given, in pursuance of the act of Congress passed on the 26th March last, entitled 'An Act supplementary to the Act entitled An Act relative to the Election of a President and Vice-President of the United States, and declaring the Officer who shall act as President, in Case of Vacancies in the Offices both of President and Vice-President,' — That the amendment proposed, during the last session of Congress, to the Constitution of the United States, respecting the manner of voting for President and Vice-President of the United States, has been ratified by the legislatures of three fourths of the several states, — to wit, by those of Vermont, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Virginia, Ohio, Kentucky, Tennessee, North Carolina, South Carolina, and Georgia, and has thereby become valid as part of the Constitution of the United States.

"Given under my hand, at the city of Washington, this twenty-fifth day of September, 1804. (Signed) JAMES MADISON."



## LUTHER MARTIN'S LETTER

ON THE

FEDERAL CONVENTION OF 1787.

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THE GENUINE INFORMATION, DELIVERED TO THE LEGISLATURE OF THE STATE OF MARYLAND, RELATIVE TO THE PROCEEDINGS OF THE GENERAL CONVENTION, HELD AT PHILADELPHIA, IN 1787, BY LUTHER MARTIN, ESQ., ATTORNEY-GENERAL OF MARYLAND, AND ONE OF THE DELEGATES IN THE SAID CONVENTION.

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*To the Hon. THOMAS COCKEY DEYE, Speaker of the House of Delegates of Maryland.*

SIR, I flatter myself the subject of this letter will be a sufficient apology for thus publicly addressing it to you, and, through you, to the other members of the House of Delegates. It cannot have escaped your or their recollection, that, when called upon, as the servant of a free state, to render an account of those transactions in which I had a share, in consequence of the trust reposed in me by that state, among other things, I informed them, "that, some time in July, the *Hon. Mr. Yates* and *Mr. Lansing*, of New York, left the Convention; that they had uniformly opposed the system, and that, I believe, despairing of getting a proper one brought forward, or of rendering any real service, they returned no more." You cannot, sir, have forgotten — for the incident was too remarkable not to have made some impression — that, upon my giving this information, the zeal of one of my honorable colleagues, in favor of a system which I thought it my duty to oppose, impelled him to interrupt me, and, in a manner which I am confident his zeal alone prevented him from being convinced was not the most delicate, to insinuate, pretty strongly, that the statement which I had given of the conduct of those gentlemen, and their motives for not returning, was not candid.

Those honorable members have officially given information on this subject, by a joint letter to his excellency, Governor Clinton. [See elsewhere in this volume.] Indulge me, sir, in giving an extract from it, that it may stand contrasted in the same page with the information I gave, and may convict me of the want of candor of which I was charged, if the charge was just: if it will not do that, then let it silence my accusers. —

"Thus circumstanced, under these impressions, to have hesitated would have been to be culpable. We therefore gave the principles of the Constitution, which has received the sanction of a majority of the Convention, our decided and unreserved dissent. We were not present at the completion of the new Constitution; but, before we left the Convention, its principles were so well established as to convince us that no alteration was to be expected to conform it to our ideas of expediency and safety. A persuasion that our further attendance would be fruitless and unavailing, rendered us less solicitous to return."

These, sir, are their words. On this I shall make no comment. I wish not to wound the feelings of any person. I only wish to convince.

I have the honor to remain, with the utmost respect,

Your very obedient servant,

LUTHER MARTIN.

BALTIMORE, *January 27, 1788.*

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[Mr. MARTIN, when called upon, addressed the house nearly as follows:—]

Since I was notified of the resolve of this honorable house, that we should attend this day, to give information with regard to the proceedings of the late Convention, my time has necessarily been taken up with business, and I have also been obliged to make a journey to the Eastern Shore. These circumstances have prevented me from being as well prepared as I could wish to give the information required. However, the few leisure moments I could spare, I have devoted to refreshing my memory, by looking over the papers and notes in my possession; and shall, with pleasure, to the best of my abilities, render an account of my conduct.

It was not in my power to attend the Convention immediately on my appointment. I took my seat, I believe, about the 8th or 9th of June. I found that Governor Randolph, of Virginia, had laid before the Convention certain propositions for their consideration, which have been read to this house by my honorable colleague; and I believe he has very faithfully detailed the substance of the speech with which the business of the Convention was opened; for, though I was not there at the time, I saw notes which had been taken of it.

The members of the Convention from the states came there under different powers; the greatest number, I believe, under powers nearly the same as those of the delegates of this state. Some came to the Convention under the former appointment, authorizing the meeting of delegates merely to regulate trade. Those of Delaware were expressly instructed to agree to no system which should take away from the states that equality of suffrage secured by the original Articles of Confederation. Before I arrived, a number of rules had been adopted to regulate the proceedings of the Convention, by one of which, seven states might proceed to business, and consequently four states, the majority of that number, might eventually have agreed upon a system which was to affect the whole Union. By another, the doors were to be shut, and the whole proceedings were to be kept secret; and so far did this rule extend, that we were thereby prevented from corresponding with gentlemen in the different states upon the subjects under our discussion—a circumstance, sir, which I confess I greatly regretted. I had no idea that all the wisdom, integrity, and virtue of this state, or of the others, were centred in the Convention. I wished to have corresponded freely and confidentially with eminent political characters in my own and other states—not implicitly to be dictated to by them, but to give their sentiments due weight and consideration. So *extremely solicitous* were they that their proceedings should not transpire, that the members were prohibited even from taking copies of resolutions, on which the Convention were deliberating, or extracts of any kind from the Journals, without formally moving for, and obtaining permission, by a vote of the Convention for that purpose.

You have heard sir, the resolutions which were brought forward by the

honorable member from Virginia. Let me call the attention of this house to the conduct of Virginia when our Confederation was entered into. That state then proposed, and obstinately contended, *contrary to the sense of, and unsupported by, the other states, for an inequality of suffrage, founded on numbers, or some such scale*, which should give her, and certain other states, *influence in the Union over the rest*. Pursuant to that spirit which then characterized her, and uniform in her conduct, the very second resolve is calculated expressly for that purpose — *to give her a representation proportioned to her numbers*, — as if the *want of that* was the *principal defect* in our original system, and this alteration the great means of remedying the evils we had experienced under our present government.

The object of *Virginia and other large states, to increase their power and influence over the others*, did not escape observation. The subject, however, was discussed with great coolness in the committee of the whole house, (for the Convention had resolved itself into a committee of the whole, to deliberate upon the propositions delivered in by the honorable member from Virginia.) Hopes were formed that the farther we proceeded in the examination of the resolutions, the better the house might be satisfied of the impropriety of adopting them, and that they would finally be rejected by a majority of the committee. If, on the contrary, a majority should report in their favor, it was considered that it would not preclude the members from bringing forward and submitting any other system to the consideration of the Convention; and accordingly, while those resolves were the subject of discussion in the committee of the whole house, a number of the members who disapproved them were preparing *another system*, such as *they thought more conducive to the happiness and welfare of the states*. The propositions originally submitted to the Convention having been debated, and undergone a variety of alterations in the course of our proceedings, the committee of the whole house, by a *small majority*, agreed to a *report*, which I am happy, sir, to have in my power to lay before you. It was as follows: —

“1. *Resolved*, That it is the opinion of this committee, that a *national government* ought to be established, consisting of a supreme legislative, judiciary, and executive.

“2. That the legislative ought to consist of *two branches*.

“3. That the members of the first branch of the national legislature ought to be elected by the people of the several states, for the term of three years; to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office established by a particular state, or under the authority of the United States, except those particularly belonging to the functions of the first branch, during the term of service, and under the national government, for the space of one year after its expiration.

“4. That the members of the second branch of the legislature ought to be chosen by the individual legislatures; to be of the age of thirty years at least; to hold their offices for a term sufficient to insure their independency, namely, seven years, one third to go out biennially, to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury; to be ineligible to any office by a particular state, or under the authority of the United States, except those peculiarly belonging to the functions of

the second branch, during the term of service, and under the national government, for the space of one year after its expiration.

"5. That each branch ought to possess the right of originating acts.

"6. That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation, and *more-over to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation*; to *negative* all laws passed by the *several states*, contravening, in the opinion of the legislature of the *United States*, the articles of union, or any treaties subsisting under the authority of the Union.

"7. That the *right of suffrage*, in the *first* branch of the national legislature, *ought not to be according to the rule established in the Articles of Confederation*, but according to some equitable rate of representation; namely, *in proportion to the whole number of white, and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each state.*

"8. That the *right of suffrage* in the *second* branch of the national legislature *ought to be according to the rule established in the first.*

"9. That a national executive be instituted, to consist of a single person, *to be chosen by the national legislature* for the term of seven years, with power to carry into execution the national laws; *to appoint to offices* in cases not otherwise provided for; to be ineligible a second time, and to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service, to be paid out of the national treasury.

"10. That the national executive shall have a right to *negative any legislative act, which shall not afterwards be passed unless by two thirds of each branch of the national legislature.*

"11. That a national judiciary be established, to consist of one supreme tribunal, the judges of which to be appointed by the *second branch* of the national legislature, to hold their offices during good behavior, and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

"12. That the *national legislature* be empowered to appoint *inferior tribunals.*

"13. That the jurisdiction of the *national* judiciary shall extend to cases which respect the collection of the national revenue, cases arising under the laws of the United States, impeachments of any national officer, and *questions which involve the national peace and harmony.*

"14. *Resolved*, That provision ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government, territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

"15. *Resolved*, That provision ought to be made for the continuance of Congress, and their authority and privileges, until a given day after the reform of the articles of union shall be adopted, and for the completion of all their engagements.



“ 16. That a republican constitution and its existing laws ought to be guaranteed to each state by the United States.

“ 17. That provision ought to be made for the amendment of the articles of union whensoever it shall seem necessary.

“ 18. That the legislative, executive, and judiciary powers, within the several states, ought to be bound by oath to support the articles of the union.

“ 19. That the amendments which shall be offered to the Confederation by this Convention, ought, at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies, recommended by the legislatures, to be expressly chosen by the people, to consider and decide thereon.”

*These propositions, sir, were acceded to by a majority of the members of the committee — a system by which the large states were to have not only an inequality of suffrage in the first branch, but also the same inequality in the second branch, or Senate. However, it was not designed the second branch should consist of the same number as the first. It was proposed that the Senate should consist of twenty-eight members, formed on the following scale: — Virginia to send five, Pennsylvania and Massachusetts each four; South Carolina, North Carolina, Maryland, New York, and Connecticut, two each, and the states of New Hampshire, Rhode Island, Jersey, Delaware, and Georgia, each of them one. Upon this plan, the three large states, Virginia, Pennsylvania, and Massachusetts, would have thirteen senators out of twenty-eight — almost one half of the whole number. Fifteen senators were to be a quorum to proceed to business; those three states would, therefore, have thirteen out of that quorum. Having this inequality in each branch of the legislature, it must be evident, sir, that they would make what laws they pleased, however injurious or disagreeable to the other states, and that they would always prevent the other states from making any laws, however necessary and proper, if not agreeable to the views of those three states. They were not only, sir, by this system, to have such an undue superiority in making laws and regulations for the Union, but to have the same superiority in the appointment of the President, the judges, and all other officers of government.*

Hence these three states would, in reality, have the appointment of the President, judges, and all other officers. This President, and these judges so appointed, we may be morally certain, would be citizens of one of those three states; and the President, as appointed by them, and a citizen of one of them, would espouse their interests and their views, when they came in competition with the views and interests of the other states. This President, so appointed by the three large states, and so unduly under their influence, was to have a negative upon every law that should be passed, which, if negatived by him, was not to take effect unless assented to by two thirds of each branch of the legislature — a provision which deprived ten states of even the faintest shadow of liberty; for if they, by a miraculous unanimity, having all their members present, should outvote the other three, and pass a law contrary to their wishes, those three large states need only procure the President to negative it, and thereby prevent a possibility of its ever taking effect, because the representatives of those three states would amount to much more than one third (almost one half) of the representatives in each branch. And, sir, this government so organized, with all this undue superiority in those three large states, was, as you see, to have a power of negativing the laws passed

by every state legislature in the Union. Whether, therefore, laws passed by the legislature of Maryland, New York, Connecticut, Georgia, or of any other of the ten states, for the regulation of their internal police, should take effect, and be carried into execution, was to depend on the good pleasure of the representatives of Virginia, Pennsylvania, and Massachusetts.

This system of slavery, which bound hand and foot ten states in the Union, and placed them at the mercy of the other three, and under the most abject and servile subjection to them, was approved by a majority of the members of the Convention, and reported by the committee.

On this occasion, the house will recollect that the Convention was resolved into a committee of the whole. Of this committee Mr. Gorham was chairman. The Hon. Mr. Washington was then on the floor, in the same situation with the other members of the Convention at large, to oppose any system he thought injurious, or to propose any alterations or amendments he thought beneficial. To these propositions, so reported by the committee, no opposition was given by that illustrious personage, or by the president of the state of Pennsylvania. They both appeared cordially to approve them, and to give them their hearty concurrence. Yet this system, I am confident, Mr. Speaker, there is not a member in this house would advocate, or who would hesitate one moment in saying it ought to be rejected. I mention this circumstance, in compliance with the duty I owe this honorable body, not with a view to lessen those exalted characters, but to show how far the greatest and best of men may be led to adopt very improper measures, through error in judgment, state influence, or by other causes; and to show that it is our duty not to suffer our eyes to be so far dazzled by the splendor of names as to run blindfolded into what may be our destruction.

Mr. Speaker, I revere those illustrious personages as much as any man here. No man has a higher sense of the important services they have rendered this country. No member of the Convention went there more disposed to pay deference to their opinions. But I should little have deserved the trust this state reposed in me, if I could have sacrificed its dearest interests to my complaisance for their sentiments.

When, contrary to our hopes, it was found that a majority of the members of the Convention had, in the committee, agreed to the system I have laid before you, we then thought it necessary to bring forward the propositions which such of us who had disapproved the plan before had prepared. The members who prepared these resolutions were principally of the Connecticut, New York, New Jersey, Delaware, and Maryland delegations. The Hon. Mr. Patterson, of the Jerseys, laid them before the Convention. Of these propositions I am in possession of a copy, which I shall beg leave to read to you.

These propositions were referred to a committee of the whole house. Unfortunately, the New Hampshire delegation had not yet arrived; and the sickness of a relation of the Hon. Mr. M'Henry obliged him still to be absent — a circumstance, sir, which I considered much to be regretted, as Maryland thereby was represented by only two delegates, and they unhappily differed very widely in their sentiments.

The result of the reference of these last propositions to a committee, was a speedy and hasty determination to reject them. I doubt not, sir, to those who consider them with attention, so sudden a rejection will appear surprising; but it may be proper to inform you, that, on our meeting in

Convention, it was soon found there were among us three parties of very different sentiments and views: —

One party, whose object and wish it was to abolish and annihilate all state governments, and to bring forward one general government over this extensive continent, of a monarchical nature, under certain restrictions and limitations. Those who openly avowed this sentiment were, it is true, but few; yet it is equally true, that there was a considerable number who did not openly avow it, who were, by myself and many others of the Convention, considered as being in reality favorers of that sentiment, and, acting upon those principles, covertly endeavoring to carry into effect what they well knew openly and avowedly could not be accomplished. The second party was not for the abolition of the state governments, nor for the introduction of a monarchical government under any form; but they wished to establish such a system as could give their own states undue power and influence, in the government, over the other states.

A third party was what I considered truly federal and republican. This party was nearly equal in number with the other two, and was composed of the delegations from Connecticut, New York, New Jersey, Delaware, and in part from Maryland; also of some individuals from other representations. This party, sir, were for proceeding upon terms of *federal equality*; they were for taking our present *federal system* as the basis of their proceedings, and, as far as experience had shown us that there were defects, to remedy those defects; as far as experience had shown that other powers were necessary to the federal government, to give those powers. They considered this the object for which they were sent by their states, and what their states expected from them. They urged that if, after doing this, experience should show that there still were defects in the system, (as no doubt there would be,) the same good sense that induced this Convention to be called, would cause the states, when they found it necessary, to call another; and if that convention should act with the same moderation, the members of it would proceed to correct such errors and defects as experience should have brought to light — that, by proceeding in this train, we should have a prospect at length of obtaining as perfect a system of federal government as the nature of things would admit.

On the other hand, if we, contrary to the purpose for which we were intrusted, considering ourselves as master-builders, too proud to amend our original government, should demolish it entirely, and erect a new system of our own, a short time might show the new system as defective as the old, perhaps more so. Should a convention be found necessary again, if the members thereof, acting upon the same principles, instead of amending and correcting its defects, should demolish that entirely, and bring forward a third system, that also might soon be found no better than either of the former; and thus we might always remain young in government and always suffering the inconveniences of an incorrect, imperfect system.

But, sir, the favorers of monarchy, and those who wished the total abolition of state governments, — well knowing that a government founded on *truly federal principles*, the bases of which were the *thirteen state governments preserved in full force and energy*, would be destructive of their views; and knowing they were too weak in numbers openly to bring forward their system; conscious, also, that the people of America would reject it if proposed to them, — joined their interest with that party who wished a system giving *particular states the power and influence over the others*, procuring, in return, mutual sacrifices from them, in giving the govern-



ment *great* and *undefined* powers as to its *legislative* and *executive*; well knowing that, by *departing from a federal system*, they paved the way for their favorite object — the *destruction of the state governments*, and the introduction of *monarchy*. And hence, Mr. Speaker, I apprehend, in a great measure, arose the objections of those honorable members, Mr. Mason and Mr. Gerry. In every thing that tended to give the *large states* power over the *smaller*, the *first* of those gentlemen could not forget he belonged to the Ancient Dominion; nor could the *latter* forget that he represented Old Massachusetts; that part of the system which tended to give those states power over the others met with their *perfect approbation*. But when they viewed it charged with *such powers* as would *destroy all state governments*, their *own* as well as the *rest*, — when they saw a President so constituted as to differ from a monarch scarcely but in name, and having it in his power to become such in reality when he pleased, — they, being *republicans* and *federalists*, as far as an attachment to their own states would permit them, warmly and zealously opposed those parts of the system. From these different sentiments, and from this combination of interest, *I apprehend*, sir, proceeded the fate of what was called the Jersey resolutions, and the report made by the committee of the whole house.

The Jersey propositions being thus rejected, the Convention took up those reported by the committee, and proceeded to debate them by paragraphs. It was now that they who disapproved the report found it necessary to make a *warm* and *decided opposition*, which took place upon the discussion of the seventh resolution, which related to the *inequality* of representation in the *first* branch. Those who advocated this inequality, urged, that, when the Articles of Confederation were formed, it was *only* from *necessity* and *expediency* that the states were admitted *each* to have an *equal vote*; but that our situation was now altered, and therefore those states who considered it contrary to their interest would no longer abide by it. They said no state ought to wish to have influence in government, except in proportion to what it contributes to it; that if it contributes but little, it ought to have but a small vote; that taxation and representation ought always to go together; that, if one state had *sixteen times as many inhabitants* as another, or was *sixteen times as wealthy*, it ought to have *sixteen times as many votes*; that an inhabitant of Pennsylvania ought to have as much weight and consequence as an inhabitant of Jersey or Delaware; that it was contrary to the feelings of the human mind — what the *large states* would *never* submit to; that the *large states* would have *great objects* in view, in which they would never permit the *smaller states* to thwart them; that *equality of suffrage* was the rotten part of the Constitution, and that this was a happy time to get clear of it. In fine, it was the poison which contaminated our whole system, and the source of all the evils we experienced.

This, sir, is the substance of the arguments, — if arguments they may be called, — which were used in favor of *inequality of suffrage*. Those who advocated the *equality of suffrage* took the matter up on the original principles of government. They urged that all men, considered in a state of nature, before any government is formed, are equally free and independent, no one having any right or authority to exercise power over another, and this *without any regard to difference in personal strength, understanding, or wealth* — that, when such individuals enter into government, they have *each* a *right* to an *equal voice* in its first formation, and afterwards have *each* a *right* to an *equal vote* in every matter which relates



to their government:—that if it could be done conveniently, they have a right to exercise it in person: where it cannot be done in person, but, for convenience, representatives are appointed to act for them, every person has a right to an equal vote in choosing that representative who is intrusted to do, for the whole, that which the whole, if they could assemble, might do in person, and in the transacting of which each would have an equal voice:—that if we were to admit, because a man was more wise, more strong, or more wealthy, he should be entitled to more votes than another, it would be inconsistent with the freedom and liberty of that other, and would reduce him to slavery.

Suppose, for instance, ten individuals, in a state of nature, about to enter into government, nine of whom are equally wise, equally strong, and equally wealthy; the tenth is ten times as wise, ten times as strong, or ten times as rich: if, for this reason he is to have ten votes for each vote of either of the others, the nine might as well have no vote at all—since, though the whole nine might assent to a measure, yet the vote of the tenth would countervail, and set aside all their votes. If this tenth approved of what they wished to adopt, it would be well; but if he disapproved, he could prevent it; and in the same manner he could carry into execution any measure he wished, contrary to the opinions of all the others, he having ten votes, and the others altogether but nine. It is evident that, on these principles, the nine would have no will nor discretion of their own, but must be totally dependent on the will and discretion of the tenth: to him they would be as absolutely slaves as any negro is to his master. If he did not attempt to carry into execution any measures injurious to the other nine, it could only be said that they had a good master; they would not be the less slaves, because they would be totally dependent on the will of another, and not on their own will. They might not feel their chains, but they would, notwithstanding wear them; and whenever their master pleased, he might draw them so tight as to gall them to the bone. Hence it was urged, the inequality of representation, or giving to one man more votes than another, on account of his wealth, &c., was altogether inconsistent with the principles of liberty; and in the same proportion as it should be adopted, in favor of one or more, in that proportion are the others enslaved. It was urged that, though every individual should have an equal voice in the government, yet even the superior wealth, strength, or understanding, would give great and undue advantages to those who possessed them—that wealth attracts respect and attention; superior strength would cause the weaker and more feeble to be cautious how they offended, and to put up with small injuries rather than engage in an unequal contest. In like manner, superior understanding would give its possessor many opportunities of profiting at the expense of the more ignorant.

Having thus established these principles with respect to the *rights of individuals* in a *state of nature*, and what is due to *each* on entering into government,—principles established by every writer on liberty,—they proceeded to show that *states*, when *once formed*, are considered, *with respect to each other*, as *individuals* in a state of nature; that, like individuals, each *state* is considered *equally free* and *equally independent*, the *one* having no right to exercise authority over the *other*, though *more strong*, *more wealthy*, or *abounding with more inhabitants*—that, when a number of *states* unite themselves under a *federal government*, the *same principles apply to them* as when a number of *individual men* unite them-

selves under a *state government* — that every argument which shows *one man* ought not to have *more votes* than *another*, because he is *wiser stronger*, or *wealthier*, proves that *one state* ought not to have *more votes* than *another*, because it is *stronger*, *richer*, or *more populous*; and that, by *giving one state*, or *one or two states*, *more votes* than the *others*, the *others* thereby are *enslaved to such state or states*, having the *greater number of votes*, in the *same manner* as in the case before put of *individuals*, when *one* has *more votes than the others* — that the reason why each individual man, in forming a state government, should have an equal vote, is, because each individual, before he enters into government, is *equally free and independent*; so *each state*, when *states enter* into a *federal government*, are entitled to an *equal vote*, because, before they entered into such federal government, *each state* was *equally free and equally independent* — that *adequate representation of men, formed into a state government*, consists in *each man* having an *equal voice*; either personally, or if by representatives, that he should have an equal voice in choosing the representatives — so *adequate representation of states in a federal government*, consists in *each state* having an *equal voice*, either in person or by its representative, in every thing which relates to the federal government — that this adequacy of representation is *more important* in a *federal*, than in a *state government*, because the members of a state government, the *district* of which is *not very large*, have generally such a common interest, that laws can scarcely be made by *one part oppressive* to the *others*, without *their suffering in common*; but the *different states* composing an *extensive federal empire*, widely distant *one* from the *other*, may have *interests so totally distinct*, that the *one part* might be greatly *benefited* by what would be *destructive* to the *other*.

They were not satisfied by resting it on principles; they also appealed to history. They showed that, in the Amphictyonic confederation of the Grecian cities, *each city*, however *different in wealth, strength*, and other *circumstances*, sent the same *number of deputies*, and had *each an equal voice* in every thing that related to the common concerns of Greece. It was shown that, in the seven provinces of the United Netherlands, and the confederated cantons of Switzerland, *each canton*, and *each province*, have an *equal vote*, although there are as great distinctions of wealth, strength, population, and extent of territory, among those provinces, and those cantons, as among *these states*. It was said that the maxim, that taxation and representation ought to go together, was true so far that no person ought to be *taxed*. who is not *represented*; but not in the extent insisted upon, to wit, that the *quantum of taxation and representation* ought to be the *same*; on the contrary, the *quantum of representation* depends upon the quantum of *freedom*, and therefore *all*, whether individual *states* or individual *men*, who are *equally free*, have a right to *equal representation* — that to those who insist that he who pays the greatest share of taxes ought to have the greatest number of votes, it is a sufficient answer to say, that *this rule* would be *destructive* of the *liberty* of the *others*, and would render them *slaves* to the *more rich and wealthy* — that, if one man pays *more taxes* than another, it is because he has *more wealth* to be protected by government, and he receives greater benefits from the government; so, if one state pays more to the federal government, it is because, as a state, she enjoys greater blessings from it; she has more wealth protected by it, or a greater number of inhabitants, whose rights are secured, and who share its advantages.

It was urged that, upon these principles, the Pennsylvanian, or inhabitant of a large state, was of as much consequence as the inhabitant of Jersey, Delaware, Maryland, or any other state — that *his consequence* was to be decided by *his situation* in his *own state*; that, if he was *there* as *free*, if he had as great share in the forming of his own government, and in the making and executing its laws, as the inhabitants of those other states, then was he equally important and of equal consequence. Suppose a confederation of states had never been adopted, but every state had remained absolutely in its independent situation, — no person could, with propriety, say that the citizen of the large state was not as important as the citizen of the smaller. The confederation of states cannot alter the case. It was said that, in all transactions between state and state, the freedom, independence, importance, and consequence, even the individuality, of each citizen of the different states, might with propriety be said to be swallowed up or concentrated in the independence, the freedom, and the individuality, of *the state* of which they are citizens; that the *thirteen states* are *thirteen distinct, political, individual existences*, as to each other; that the *federal government* is, or *ought to be*, a government over these thirteen political, individual existences, which form the members of that government; and as the *largest state* is only a *single individual* of this government, it ought to have only *one vote*; the *smallest state*, also being *one individual member* of this government, ought also to have *one vote*. To those who urged that the states having equal suffrage was contrary to the feelings of the human heart, it was answered, that it was admitted to be contrary to the feelings of pride and ambition, but those were feelings which ought not to be gratified at the expense of freedom.

It was urged that the position that great states would have great objects in view, in which they would suffer the less states to thwart them, was one of the strongest reasons why inequality of representation ought not to be admitted. If those great objects were not inconsistent with the interest of the less states, they would readily concur in them; but if they were inconsistent with the interest of a majority of the states composing the government, in that case two or three states ought not to have it in their power to aggrandize themselves at the expense of all the rest. To those who alleged that equality of suffrage, in our federal government, was the poisonous source from which all our misfortunes flowed, it was answered that the allegation was not founded in fact — that equality of suffrage had *never been complained of, by the states*, as a defect in our federal system — that, among the eminent writers, foreigners and others, who had treated of the defects of our Confederation, and proposed alterations, none had proposed an alteration in this part of the system; and members of the Convention, both in and out of Congress, who advocated the equality of suffrage, called upon their opponents, both in and out of Congress, and challenged them to produce one single instance where a bad measure had been adopted, or a good measure had failed of adoption, in consequence of the states having an equal vote. On the contrary, they urged that all our evils flowed from the want of power in the federal head, and that, let the right of suffrage in the states be altered in any manner whatever, if no greater power were given to the government, the same inconveniences would continue.

It was denied that the equality of suffrage was *originally* agreed to on principles of necessity or expediency; on the contrary, that it was adopted on the principles of the rights of men, and the rights of states, which were then well known, and which then influenced our conduct, although now they



seem to be forgotten. For this, the Journals of Congress were appealed to. It was from them shown, that, when the committee of Congress reported to that body the Articles of Confederation, the very first article which became the subject of discussion was that respecting equality of suffrage — that Virginia proposed divers modes of suffrage, all on the principle of inequality, which were *almost unanimously* rejected — that, on the question for adopting the article, it passed, Virginia being the only state which voted in the negative — that, after the Articles of Confederation were submitted to the states, by them to be ratified, almost every state proposed certain amendments, which they instructed their delegates to endeavor to obtain before ratification; and that, among all the amendments proposed, not one state, not even Virginia, proposed an amendment of that article securing the equality of suffrage; the most convincing proof it was agreed to, and adopted, not from necessity, but upon a full conviction that, according to the principles of free government, the states had a right to that equality of suffrage.

But, sir, it was to no purpose that the futility of their objections was shown. When driven from the pretence that the equality of suffrage had been originally agreed to on principles of expediency and necessity, the representatives of the large states persisted in a declaration, that they would never agree to admit the smaller states to an equality of suffrage. In answer to this, they were informed, and informed in terms the most strong and energetic that could possibly be used, that *we never would agree* to a system giving them the undue influence and superiority they proposed — that we would risk every possible consequence — that from anarchy and confusion order might arise — that slavery was the worst that could ensue, and we considered the system proposed to be the most complete, most abject system of slavery that the wit of man ever devised, under the pretence of forming a government for free states — that we never would submit tamely and servilely to a present certain evil in dread of a future, which might be imaginary — that we were sensible the eyes of our country and the world were upon us — that we would not labor under the imputation of being unwilling to form a strong and energetic federal government; but we would publish the system which we *approved*, and also that which we *opposed*, and leave it to our country and the world at large to judge, between us, who best understood the rights of freemen and free states, and who best advocated them; and to the same tribunal we would submit, who ought to be answerable for all the consequences which might arise to the Union, from the Convention breaking up without proposing any system to their constituents. During this debate, we were threatened that, if we did not agree to the system proposed, we never should have an opportunity of meeting in convention to deliberate on another; and this was frequently urged. In answer, we called upon them to show what was to prevent it, and from what quarter was our danger to proceed. Was it from a foreign enemy? Our distance from Europe, and the political situation of that country, left us but little to fear. Was there any ambitious state or states, who, in violation of every sacred obligation, was preparing to enslave the other states, and raise itself to consequence on the ruin of the others? Or was there any such ambitious individual? We did not apprehend it to be the case. But suppose it to be true; it rendered it the more necessary that we should sacredly guard against a system which might enable all those ambitious views to be carried into effect, even *under the sanction of the Constitution and government*. In fine, sir, all



these threats were treated with contempt, and they were told that we apprehended but one reason to prevent the states meeting again in convention; that, when they discovered the part this Convention had acted, and how much its members were abusing the trust reposed in them, the states would never trust another convention.

At length, sir, after every argument had been exhausted by the advocates of equality of representation, the question was called, when a majority decided in favor of the inequality — Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia, voting for it; Connecticut, New York, New Jersey, and Delaware, against; Maryland divided. It may be thought surprising, sir, that Georgia, a state now small, and comparatively trifling, in the Union, should advocate this system of *unequal representation*, giving up her present equality in the federal government, and sinking herself almost to total insignificance in the scale; but, sir, it must be considered that Georgia has the most extensive territory in the Union, being larger than the whole island of Great Britain, and thirty times as large as Connecticut. This system being designed to preserve to the states their whole territory unbroken, and to prevent the erection of new states within the territory of any of them, Georgia looked forward when, *her population* being increased in some measure proportioned to her territory, she should rise in the scale, and give law to the other states; and hence we found the delegation of Georgia warmly advocating the proposition of giving the states unequal representation. Next day, the question came on with respect to the inequality of representation in the second branch; but little debate took place; the subject had been exhausted on the former question. On the votes being taken, Massachusetts, Pennsylvania, Virginia, North Carolina, and South Carolina, voted for the inequality. Connecticut, New York, New Jersey, Delaware, and Maryland,\* were in the negative. Georgia had only two representatives on the floor, one of whom (not, I believe, because he was against the measure, but from a conviction that he would go home, and thereby dissolve the Convention, before we would give up the question) voted also in the negative, by which that state was divided. Thus, sir, on this great and important part of the system, the Convention being equally divided, — five states for the measure, five against, and one divided, — there was a total stand; and we did not seem very likely to proceed any farther. At length, it was proposed that a select committee should be balloted for, composed of a member from each state, which committee should endeavor to devise some mode of reconciliation or compromise. I had the honor to be on that committee. We met, and discussed the subject of difference. The *one side* insisted on the *inequality* of suffrage in both branches; the *other side*, *equality* in both. Each party was tenacious of their sentiments. When it was found that nothing could induce us to yield the inequality in both branches, they at length proposed, by way of compromise, if *we* would accede to their wishes as to the *first* branch, *they* would agree to an equal representation in the *second*. To this it was answered, that there was no

\* On this question, Mr. Martin was the *only* delegate for Maryland *present*, which circumstance secured the state a *negative*. Immediately after the question had been taken, and the president had declared the votes, Mr. Jenifer came into the Convention; when Mr. King, from Massachusetts, valuing himself on Mr. Jenifer to divide the state of Maryland on this question, as he had on the former, requested of the president that the question might be put again. However, the motion was *too extraordinary* in its nature to meet with success.

merit in the proposal; it was only consenting, after they had struggled to put both their feet on our necks, to take one of them off, provided we would consent to let them keep the other on; when they knew, at the same time, that they could not put one foot on our necks, unless we would consent to it; and that, by being permitted to keep on that one foot, they should afterwards be able to place the other foot on whenever they pleased.

They were also called on to inform us what security they could give us, should we agree to this compromise, that they would abide by the plan of government formed upon it any longer than suited their interests, or they found it *expedient*. "The states have a *right* to an equality of representation. This is *secured* to us by our present Articles of Confederation; we are in possession of this right. It is now to be *torn from us*. What security can you give us that, when you get the *power* the proposed system will give you, when you have *men* and *money*, you will not force from the states that equality of suffrage, in the second branch, which you now deny to be their right, and only give up from absolute necessity? Will you tell us we ought to trust you because you now enter into a solemn compact with us? This you have done *before*, and *now* treat with the utmost *contempt*. Will you *now* make an appeal to the Supreme Being, and call on him to guaranty your observance of this compact? The same you have formerly done for your observance of the Articles of Confederation, which you are now violating in the most *wanton* manner.

"The same reason which you *now* urge, for destroying our *present* federal government, may be urged for abolishing the system you propose to adopt; and as the method prescribed by the Articles of Confederation is now totally disregarded by you, as little regard may be shown by you to the rules prescribed for the amendment of the new system, whenever, having obtained power by the government, you shall hereafter be pleased to discard it entirely, or so to alter it as to give *yourselves* all that *superiority* which you have *now contended* for, and to obtain which you have shown yourselves disposed to hazard the Union."—Such, sir, was the language used on that occasion; and they were told that, as we could not *possibly* have a stronger tie on them for the observance of the new system than we had for their observance of the Articles of Confederation, (which had proved totally insufficient,) it would be wrong and imprudent to confide in them. It was further observed, that the inequality of the representation would be daily increasing—that many of the states whose territory was confined, and whose population was at this time large in proportion to their territory, would probably, twenty, thirty, or forty years hence, have no more representatives than at the introduction of the government; whereas the states having extensive territory, where lands are to be procured cheap, would be daily increasing in the number of inhabitants, not only from propagation, but from the emigration of the inhabitants of the other states, and would have soon double, or perhaps treble, the number of representatives that they are to have at first, and thereby enormously increase their influence in the national councils. However, the majority of the select committee at length agreed to a series of propositions by way of compromise,—part of which related to the representation in the first branch, nearly as the system is now published, and part of them to the second branch, securing in that equal representation,—and reported them as a compromise upon the *express terms* that they were wholly to be adopted or wholly to be rejected. Upon this compromise, a great number of the members so far engaged themselves,

that, if the system was progressed upon agreeably to the terms of compromise, they would lend their names, by signing it, and would not actively oppose it, if their states should appear inclined to adopt it. Some, however, — in which number was myself, — who joined in that report, and agreed to proceed upon those principles, and see what kind of a system would ultimately be formed upon it, yet reserved to themselves, in the most explicit manner, the right of finally giving a solemn dissent to the system, if it was thought by them inconsistent with the freedom and happiness of their country. This, sir, will account why the gentlemen of the Convention so generally signed their names to the system; — not because they thought it a *proper one*; not because they thoroughly approved, or were unanimous for it; but because they thought it *better* than the system attempted to be forced upon them. This report of the select committee was, after long dissension, adopted by a majority of the Convention, and the system was proceeded in accordingly. I believe near a fortnight — perhaps more — was spent in the discussion of this business, during which we were on the verge of dissolution, scarce held together by the strength of a hair, though the public papers were announcing our extreme unanimity.

Mr. Speaker, I think it my duty to observe that, during this struggle to prevent the large states from having all power in their hands, which had nearly terminated in a dissolution of the Convention, it did not appear to me that either of those illustrious characters, the Hon. Mr. WASHINGTON or the president of the state of Pennsylvania, was disposed to favor the claims of the smaller states against the undue superiority attempted by the large states. On the contrary, the honorable president of Pennsylvania was a member of the committee of compromise, and there advocated the *right* of the large states to an inequality in both branches, and only ultimately conceded it in the second branch on the principle of conciliation, when it was found no other terms would be accepted. This, sir, I think it my duty to mention for the consideration of those who endeavor to prop up a dangerous and defective system by great names. Soon after this period, the Hon. Mr. YATES and Mr. LANSING, of New York, left us. They had uniformly opposed the system; and, I believe, despairing of getting a *proper one* brought forward, or of rendering any real service, they returned no more. The propositions reported by the committee of the whole house having been fully discussed by the Convention, and, with many alterations, having been agreed to by a majority, a committee of five was appointed to detail the system according to the principles contained in what had been agreed to by that majority. This was likely to require some time, and the Convention adjourned for eight or ten days. Before the adjournment, I moved for liberty to be given to the different members to take *correct copies* of the propositions to which the Convention had then agreed, in order that, during the recess of the Convention, we might have an opportunity of considering them, and, if it should be thought that any alterations or amendments were necessary, that we might be prepared, against the Convention met, to bring them forward for discussion. But, sir, the same spirit which caused our doors to be shut, our proceedings to be kept secret, our Journals to be locked up, and every avenue, as far as possible, to be shut to public information, prevailed also in this case, and the proposal, so reasonable and necessary, was *rejected* by a majority of the Convention; thereby precluding even the members themselves from the necessary means of information and liberation on the important business in which they were engaged.



It has been observed, Mr. Speaker, by my honorable colleagues, that the debate respecting the mode of representation was productive of considerable warmth. This observation is true. But, sir, it is equally true, that, if we could have *tamely* and *servilely* consented to be bound in chains, and meanly condescended to assist in riveting them fast, we might have avoided all that warmth, and have proceeded with as much calmness and coolness as any Stoic could have wished. Having thus, sir, given the honorable members of this house a short history of some of the interesting parts of our proceedings, I shall beg leave to take up the *system published* by the Convention, and shall request your indulgence while I make some observations on different parts of it, and give you such further information as may be in my power. [Here Mr. Martin read the first section of the first article, and then proceeded.] With respect to this part of the system, Mr. Speaker, there was a diversity of sentiment. Those who were for two branches in the legislature — a House of Representatives and a Senate — urged the necessity of a second branch, to serve as a check upon the first, and used all those trite and common-place arguments which may be proper and just when applied to the formation of a state government over individuals variously distinguished in their habits and manners, fortune and rank; where a body chosen in a select manner, respectable for their wealth and dignity, may be necessary, frequently, to prevent the hasty and rash measures of a representation more popular. But, on the other side, it was urged that none of those arguments could with propriety be applied to the formation of a federal government over a number of independent states — that it is the state governments which are to watch over and protect the rights of the individual, whether rich or poor, or of moderate circumstances, and in which the democratic and aristocratic influence or principles are to be so blended, modified, and checked, as to prevent oppression and injury — that the federal government is to guard and protect the states and their rights, and to regulate *their common concerns* — that a federal government is formed by the states, as states, (that is, in their sovereign capacities,) in the same manner as treaties and alliances are formed — that a sovereignty, considered as such, cannot be said to have jarring interests or principles, the one aristocratic, and the other democratic; but that the principles of a sovereignty, considered as a sovereignty, are the same, whether that sovereignty is monarchical, aristocratical, democratical, or mixed — that the history of mankind doth not furnish an instance, from its earliest history to the present time, of a federal government constituted of two distinct branches — that the members of the federal government, if appointed by the states in their *state capacities*, (that is, by their legislatures, as they ought,) would be select in their choice; and, coming from different states, having different interests and views, this difference of interests and views would always be a sufficient check over the whole; and it was shown that even Adams, who, the reviewers have justly observed, appears to be as fond of checks and balances as Lord Chesterfield of the graces, — even he declares that a council consisting of one branch has always been found sufficient in a *federal* government.

It was urged, that the government we were forming was not in reality a federal, but a national, government, not founded on the principles of the preservation, but the abolition or consolidation, of all state governments — that we appeared totally to have forgotten the business for which we were sent, and the situation of the country for which we were pre-



paring our system — that we had not been sent to form a government over the inhabitants of America, considered as individuals — that, as individuals, they were all subject to their respective state governments, which governments would still remain though the federal government should be dissolved — that the system of government we were intrusted to prepare was a government over these thirteen states; but that, in our proceedings, we adopted principles which would be right and proper *only* on the supposition that there were no state governments at all, but that all the inhabitants of this extensive continent were, in their individual capacity, without government, and in a state of nature — that, accordingly, the system proposes the legislature to consist of two branches, the *one* to be drawn from the people at large, immediately, in their individual capacity; the *other* to be chosen in a more select manner, as a *check* upon the *first*. It is, in its very introduction, declared to be a compact between the people of the United States as individuals; and it is to be ratified by the people at large, in their capacity as individuals; all which, it was said, would be quite right and proper, if there were no state governments, if all the people of this continent were in a state of nature, and we were forming one national government *for* them as individuals; and is nearly the same as was done in most of the states, when they formed their governments over the people who composed them.

Whereas it was urged, that the principles on which a federal government over states ought to be constructed and ratified are the *reverse*; and, instead of the legislature consisting of two branches, *one* branch was sufficient, whether examined by the dictates of reason or the experience of ages — that the representation, instead of being drawn from the people at large, as individuals, ought to be drawn from the states, as states, in their *sovereign* capacity — that, in a federal government, the parties to the compact are not the *people*, as individuals, but the states, as states; and that it is by the states, as states, in their *sovereign* capacity, that the system of government ought to be ratified, and not by the people, as individuals.

It was further said, that, in a federal government over states equally free, sovereign, and independent, every state ought to have an equal share in making the federal laws or regulations, in *deciding* upon them, and in carrying them into execution, neither of which was the case in *this* system, but the *reverse*, the states not having an equal voice in the legislature, nor in the appointment of the *executive*, the *judges*, and the *other officers of government*. It was insisted, that in the whole system there was but *one* federal feature — the appointment of the senators by the states in their sovereign capacity, that is, by their legislatures, and the equality of suffrage in that branch; but it was said that *this* feature was only federal in appearance.

To prove *this*, — and that the Senate, as constituted, could not be a *security* for the protection and preservation of the state governments, and that the senators could not be considered the representatives of the states, as states, — it was observed that, upon *just principles*, the representative ought to speak the sentiments of his constituents, and ought to vote in the same manner that his constituents would do, (as far as he can judge,) provided his constituents were acting in *person*, and had the same knowledge and information with himself; and therefore that the representative ought to be dependent on his *constituents*, and answerable to them; that the connection between the representatives and the represented ought to be as

near and as close as possible. According to these principles, Mr. Speaker, in this state it is provided, by *its Constitution*, that the representatives in Congress shall be chosen annually, shall be paid by the state, and shall be subject to recall even within the year—so cautiously has our Constitution guarded against an abuse of the trust reposed in our representatives in the federal government; whereas, by the *third* and *sixth* section of the *first* article of this new system, the senators are to be chosen for six years, instead of being chosen annually; instead of being paid by their states who send them, *they*, in conjunction with the other branch are to pay themselves out of the treasury of the United States, and are not liable to be recalled during the period for which they are chosen. Thus, sir, for six years, the senators are rendered totally and absolutely *independent* of their states, of *whom* they ought to be the representatives, without any *bond* or *tie* between them. During that time, they may join in measures *ruinous* and *destructive* to their states, even such as should totally annihilate their state governments; and their states cannot recall them, nor exercise any control over them.

Another consideration, Mr. Speaker, it was thought, ought to have great weight to prove that the smaller states cannot depend on the Senate for the preservation of their rights, either against large and ambitious states, or against an *ambitious, aspiring President*. The Senate, sir, is so constituted that they are not only to compose one branch of the legislature, but, by the second section of the second article, they are to compose a privy council for the President. Hence it will be necessary that they should be, in a great measure, a permanent body, constantly residing at the seat of government. Seventy years are esteemed for the life of a man; it can hardly be supposed that a senator, especially from the states remote from the seat of empire, will accept of an appointment which must estrange him for six years from his state, without giving up, to a great degree, his prospects in his own state. If he has a family, he will take his family with him to the place where the government shall be fixed; that will become his home; and there is every reason to expect that his future views and prospects will centre in the favors and emoluments of the general government, or of the government of *that state* where the seat of empire is established. In either case, he is *lost* to his own state. If he places his future prospects in the favors and emoluments of the general government, he will become a dependant and creature of the President. As the system enables a senator to be appointed to office, and without the nomination of the President no appointment can take place,—as such he will favor the wishes of the President, and concur in his measures, who, if he has no ambitious views of his own to gratify, may be too favorable to the ambitious views of the large states, who will have an *undue* share in his original appointment, *on whom* he will be more dependent afterwards than on the states which are smaller. If the senator places his future prospects in that state where the seat of empire is fixed, from that time he will be, in every question wherein its particular interest may be concerned, the representative of that state, not of his own.

But even this provision apparently for the *security* of the state governments, inadequate as it is, is entirely left at the mercy of the general government; for, by the fourth section of the first article, it is expressly provided, that the Congress shall have a power to make and alter all regulations concerning the time and manner of holding elections for senators—a provision expressly looking to, and I have no doubt designed for, the utter

extinction and abolition of all state governments. Nor will this, I believe, be doubted by any person, when I inform you that some of the warm advocates and patrons of the system in Convention *strenuously opposed* the choice of the senators by the state legislatures, insisting that the state governments ought not to be introduced in any manner so as to be component parts of, or instruments for carrying into execution, the general government. Nay, so far were the friends of the system from pretending that they meant it or considered it as a federal system, that, on the question being proposed, "that a union of the states, merely federal, ought to be the sole objects of the exercise of the powers vested in the Convention," it was negatived by a majority of the members; and it was resolved, "that a national government ought to be formed." Afterwards, the word "national" was struck out by them, because they thought the *word* might tend to alarm; and although, *now*, they who advocate the system pretend to call themselves *federalists*, in Convention the distinction was quite the reverse; those who opposed the system were there considered and styled the *federal party*, those who advocated it the *anti-federal*.

Viewing it as a national, not a federal government, — as calculated and designed, not to protect and preserve, but to abolish and annihilate, the state governments, — it was opposed for the following reasons: It was said that this continent was much too extensive for one national government, which should have sufficient *power* and *energy* to pervade, and hold in obedience and subjection, all its parts, consistently with the enjoyment and preservation of liberty — that the genius and habits of the people of America were opposed to such a government — that, during their connection with Great Britain, they had been accustomed to have all their concerns transacted within a narrow circle, their colonial district; they had been accustomed to have their seats of government near them, to which they might have access, without much inconvenience, when their business should require it — that, at this time, we find, if a county is rather large, the people complain of the inconvenience, and clamor for a division of their county, or for a removal of the place where their courts are held, so as to render it more central and convenient — that, in those states the territory of which is extensive, as soon as the population increases remote from the seat of government, the inhabitants are urgent for a removal of the seat of their government, or to be erected into a new state. As a proof of this, the inhabitants of the western parts of Virginia and North Carolina, of Vermont and the Province of Maine, were instances; even the inhabitants of the western parts of Pennsylvania, who, it is said, already seriously look forward to the time when they shall either be erected into a new state, or have their seat of government removed to the Susquehannah. If the inhabitants of the different states consider it as a grievance to attend a *county court*, or the seat of their *own government*, when a little inconvenient, can it be supposed they would ever submit to have a *national government* established, the seat of which would be more than a thousand miles removed from some of them? It was insisted that governments of a republican nature are those *best* calculated to preserve the freedom and happiness of the citizen — that governments of *this kind* are only calculated for a territory but small in its extent — that the only method by which an extensive continent, like America, could be connected and united together, consistently with the principles of freedom, must be by having a number of strong and energetic state governments, for securing and protecting the *rights of individuals* forming those gov-

ernments, and for regulating all their concerns; and a strong, energetic federal government over those states, for the protection and preservation, and for regulating the common concerns of the states.

It was further insisted that, even if it was possible to effect a total abolition of the state governments at this time, and to establish one general government over the people of America, it could not long subsist, but in a little time would again be broken into a variety of governments of a *smaller extent*, similar, in some manner, to the present situation of this continent. The principal difference, in all probability, would be, that the governments so established, being effected by some violent convulsion, might not be formed on principles so favorable to liberty as those of our present state governments—that this ought to be an important consideration to such of the states who had *excellent* governments, which was the case with Maryland, and most others, whatever it might be to persons who, disapproving of their particular state government, would be willing to hazard every thing to overturn and destroy it. These reasons, sir, influenced me to vote against two branches in the legislature, and against every part of the system which was repugnant to the principles of a federal government. Nor was there a single argument urged, or reason assigned, which, to my mind, was satisfactory to prove that a good government, on *federal* principles, was unattainable; the whole of their arguments only proving, what none of us controverted—that our federal government, as originally formed, was defective, and wanted amendment.

However, a majority of the Convention, hastily and inconsiderately, without condescending to make a fair trial, in their great wisdom decided that a kind of government which a Montesquieu and a Price have declared the best calculated of any to preserve internal liberty, and to enjoy external strength and security, and the only one by which a large continent can be connected and united, consistently with the principles of liberty, was totally impracticable; and they acted accordingly.

With respect to that part of the second section of the first article which relates to the apportionment of representation and direct taxation, there were considerable objections made to it, besides the great objection of inequality. It was urged, that no principle could justify taking slaves into computation in apportioning the number of representatives a state should have in the government—that it involved the absurdity of increasing the power of a state in making laws for *free men* in proportion as that state violated the rights of freedom—that it might be proper to take slaves into consideration, when taxes were to be apportioned, because it had a tendency to discourage slavery; but to take them into account in giving representation tended to encourage the slave trade, and to make it the *interest* of the states to *continue* that *infamous traffic*—that slaves could not be taken into account as *men*, or citizens, because they were not admitted to the rights of citizens, in the states which adopted or continued slavery. If they were to be taken into account as property, it was asked what peculiar circumstance should render this property (of all others the most odious in its nature) entitled to the high privilege of conferring consequence and power in the government to its possessors, rather than any other property; and why slaves should, as property, be taken into account rather than horses, cattle, mules, or any other species; and it was observed, by an honorable member from Massachusetts, that he considered it as dishonorable and humiliating to enter into compact with the slaves of the Southern States, as it would with the *horses* and *mules* of



the Eastern. It was also objected that the numbers of representatives appointed by this section to be sent, by the particular states, to compose the first legislature, were not precisely agreeable to the rule of representation adopted by this system, and that the numbers in this section are artfully lessened for the large states, while the smaller states have their full proportion, in order to prevent the undue influence which the large states will have in the government from being too apparent; and I think, Mr. Speaker, that this objection is well founded.

I have taken some pains to obtain information of the number of freemen and slaves in the different states; and I have reason to believe that, if the estimate was now taken which is directed, and one delegate to be sent for every thirty thousand inhabitants, that Virginia would have at least *twelve* delegates, Massachusetts eleven, and Pennsylvania ten, instead of the number stated in this section; whereas the other states, I believe, would not have more than the number there allowed them; nor would Georgia, most probably, at present, send more than two. If I am right, Mr. Speaker, upon the enumeration being made, and the representation being apportioned according to the rule prescribed, the whole number of delegates would be seventy-one, thirty-six of which would be a quorum to do business: the delegates of Virginia, Massachusetts, and Pennsylvania, would amount to thirty-three of that quorum. Those three states will, therefore, have much more than equal power and influence in making the laws and regulations which are to affect this continent, and will have a moral certainty of preventing any laws or regulations which they disapprove, although they might be thought ever so necessary by a great majority of the states. It was further objected that, even if the states who had most inhabitants ought to have a greater number of delegates, yet the number of delegates ought not to be in exact proportion to the number of inhabitants, because the influence and power of those states whose delegates are numerous will be greater, when compared with the influence and power of the other states, than the proportion which the numbers of their delegates bear to each other; as, for instance, though Delaware has but one delegate, and Virginia but ten, yet Virginia has more than ten times as much *power* and *influence* in the government as Delaware. To prove this, it was observed that Virginia would have a much greater chance to carry any measure than any number of states whose delegates were altogether ten, (suppose the states of Delaware, Connecticut, Rhode Island, and New Hampshire,) since the ten delegates from Virginia, in every thing that related to the interest of that state, would *act in union*, and move one solid and compact body; whereas the delegates of these four states, though collectively equal in number to those from Virginia, coming from different states having different interests, will be less likely to harmonize and move in concert. As a further proof, it was said that Virginia, as the system is now reported, by uniting with her the delegates of four other states, can carry a question against the sense and interest of the eight states by sixty-four different combinations; the four states voting with Virginia being every time so far different as not to be composed of the same four; whereas the state of Delaware can only, by uniting four other states with her, carry a measure against the sense of eight states by two different combinations — a mathematical proof that the state of Virginia has thirty-two times greater chance of carrying a measure against the sense of eight states than Delaware, although Virginia has only ten times as many delegates. It was also

snown that the idea was totally fallacious, which was attempted to be maintained, that, if a state had one thirteenth part of the numbers composing the delegation in this system, such state would have as much influence as under the Articles of Confederation. To prove the fallacy of this idea, it was shown that, under the Articles of Confederation, the state of Maryland had but *one vote* in thirteen; yet no measure could be carried against her interests without seven states, a majority of the whole, concurring in it; whereas, in this system, though Maryland has six votes, — which is more than the proportion of one in thirteen, — yet five states may, in a variety of combinations, carry a question against her interest, though seven other states concur with her, and six states, by a much greater number of combinations, may carry a measure against Maryland, united with six other states. I shall here, sir, just observe, that, as the committee of detail reported the system, the delegates from the different states were to be one for every forty thousand inhabitants: it was afterwards altered to one for every thirty thousand. This alteration was made after I left the Convention, at the instance of whom I know not; but it is evident that the alteration is in favor of the states which have large and extensive territory, to increase their power and influence in the government, and to the injury of the smaller states; since it is the states of extensive territory who will most speedily increase the number of their inhabitants, as before has been observed, and will, therefore, most speedily procure an increase to the number of their delegates. By this alteration, Virginia, North Carolina, or Georgia, by obtaining one hundred and twenty thousand additional inhabitants, will be entitled to *four additional delegates*; whereas such state would only have been entitled to three, if forty thousand had remained the number by which to apportion the delegation.

As to that part of this section that relates to direct taxation, there was also an objection for the following reasons: It was said that a large sum of money was to be brought into the national treasury by the duties on commerce, which would be almost wholly paid by the commercial states; it would be unequal and unjust that the sum which was necessary to be raised by direct taxation should be apportioned equally upon all the states, obliging the commercial states to pay as large a share of the revenue arising therefrom as the states from whom no revenue had been drawn by imposts; since the wealth and industry of the inhabitants of the commercial states will, in the first place, be severely taxed through their commerce, and afterwards be equally taxed with the industry and wealth of the inhabitants of the other states, who have paid no part of that revenue; so that, by this provision, the inhabitants of the commercial states are, in this system, obliged to bear an unreasonable and disproportionate share in the expenses of the Union, and the payment of that foreign and domestic debt which was incurred not more for the benefit of the commercial than of the other states.

In the sixth section of the first article, it is provided, that senators and representatives may be appointed to *any civil office* under the authority of the United States, except such as shall have been created, or the emoluments of which have been increased, during the time for which they were elected. Upon this subject, sir, there was a great diversity of sentiment among the members of the Convention. As the propositions were reported by the committee of the whole house, a senator or representative could not be appointed to any office under a particular state, or under the United States, during the time for which they were chosen, nor to any

office under the United States until one year after the expiration of that time. It was said — and in my opinion justly — that no good reason could be assigned why a senator or representative should be incapacitated to hold an office in his own government, since it can only bind him more closely to his state, and attach him the more to its interests, which, as its representative, he is bound to consult and sacredly guard, as far as is consistent with the welfare of the Union, and therefore, at most, would only add the additional motive of gratitude for discharging his duty; and, according to this idea, the clause which prevented senators or delegates from holding offices in their own states was rejected by a considerable majority. But, sir, we sacredly endeavored to preserve all that part of the resolution which prevented them from being eligible to offices under the United States, as we considered it *essentially necessary* to preserve the integrity, independence, and dignity of the legislature, and to secure its members from corruption.

I was in the number of those who were extremely solicitous to preserve this part of the report; but there was a powerful opposition made by such who wished the members of the legislature to be eligible to offices under the United States. Three different times did they attempt to procure an alteration, and as often failed — a majority firmly adhering to the resolution as reported by the committee; however, an alteration was at length, by dint of perseverance, obtained, even within the last twelve days of the Convention, — for it happened after I left Philadelphia. As to the exception that they cannot be appointed to offices created by themselves, or the emoluments of which are by themselves increased, it is certainly of little consequence, since they may easily evade it by creating new offices, to which may be appointed the persons who fill the offices before created, and thereby vacancies will be made, which may be filled by the members who for that purpose have created the new offices.

It is true, the acceptance of an office vacates their seat, nor can they be reelected during their continuance in office; but it was said, that the evil would first take place; that the price for the office would be paid before it was obtained; that vacating the seat of the person who was appointed to office made way for the admission of a new member, who would come there as desirous to obtain an office as he whom he succeeded, and as ready to pay the price necessary to obtain it; in fine, that it would be only driving away the flies that were filled, to make room for those that were hungry. And as the system is now reported, the President having the power to nominate to *all offices*, it must be evident that there is no possible security for the integrity and independence of the legislature, but that they are most unduly placed under the influence of the President, and exposed to bribery and corruption.

The seventh section of this article was also the subject of contest. It was thought, by many members of the Convention, that it was very wrong to confine the origination of all revenue bills to the House of Representatives, since the members of the Senate will be chosen by the people as well as the members of the House of Delegates, — if not immediately, yet mediately, — being chosen by the members of the state legislatures which members are elected by the people; and that it makes no real difference whether we do a thing in person, or by a deputy or agent appointed by us for that purpose.

That no argument can be drawn from the House of Lords in the British constitution, since they are neither mediately nor immediately the rep-



representatives of the people, but are one of the *three estates* composing that kingdom, having hereditary rights and privileges, distinct from and independent of the people.

That it may, and probably will, be a future source of dispute and controversy between the two branches, what are, or are not, revenue bills and the more so as they are not defined in the Constitution; which controversies may be difficult to settle, and may become serious in their consequences, there being no power in the Constitution to decide upon, or authorize, in cases of absolute necessity, to terminate them by a prorogation or dissolution of either of the branches — a remedy provided in the British constitution, where the king has that power, which has been found necessary at times to be exercised, in cases of violent dissensions between the Lords and Commons on the subject of money bills.

That every regulation of commerce; every law relative to excises, stamps, the post-office, the imposing of taxes, and their collection; the creation of courts and offices; in fine, every law for the Union, if enforced by any pecuniary sanctions, as they would tend to bring money into the Continental treasury, might, and no doubt would, be considered a revenue act. That consequently the Senate — the members of which will, it may be presumed, be the most select in their choice, and consist of men the most enlightened and of the greatest abilities, who, from the duration of their appointment and the permanency of their body, will probably be best acquainted with the common concerns of the states, and with the means of providing for them — will be rendered almost *useless* as a part of the legislature; and that they will have but little to do in that capacity except patiently to wait the proceedings of the House of Representatives, and afterwards examine and approve, or propose amendments.

There were also objections to that part of this section which relates to the *negative of the President*. There were some who thought no good reason could be assigned for giving the President a negative of any kind. Upon the principle of a check to the proceedings of the legislature, it was said to be unnecessary; that the two branches having a control over each other's proceedings, and the Senate being chosen by the state legislatures, and being composed of members from the different states, there would always be a *sufficient guard* against measures being hastily or rashly adopted — that the President was not likely to have more wisdom or integrity than the senators or any of them; or to better know or consult the interest of the states, than any member of the Senate, so as to be entitled to a negative on that principle; and as to the precedent from the British constitution, (for we were eternally troubled with arguments and precedents from the British government,) it was said it would not apply. The king of Great Britain there composed one of the three estates of the kingdom; he was possessed of rights and privileges as such, distinct from the Lords and Commons — rights and privileges which descended to his heirs, and were inheritable by them; that, for the preservation of these, it was necessary he should have a negative; but that this was not the case with the President of the United States, who was no more than an officer of the government; the *sovereignty* was not in him, but in the *legislature*. And it was further urged, even if he was allowed a negative, it ought not to be of so great extent as that given by the system, since his single voice is to countervail the whole of either branch, and any number less than two thirds of the other. However, a majority of the Convention was of a different opinion, and adopted it as it now makes a part of the system.



By the eighth section of this article, Congress is to have power to lay and collect taxes, duties, imposts, and excises. When we met in Convention, after our adjournment, to receive the report of the committee of detail, the members of that committee were requested to inform us what powers were meant to be vested in Congress by the word *duties* in this section, since the word *imposts* extended to duties on goods imported, and by another part of the system no duties on exports were to be laid. In answer to this inquiry, we were informed that it was meant to give the general government the power of laying stamp duties on paper, parchment, and vellum. We then proposed to have the power inserted in express words, lest disputes might hereafter arise on the subject, and that the meaning might be understood by all who were to be affected by it; but to this it was objected, because it was said that the word *stamp* would probably sound odiously in the ears of many of the inhabitants, and be a cause of objection. By the power of imposing *stamp duties*, the Congress will have a right to declare, that no wills, deeds, or other instruments of writing, shall be good and valid without being stamped; that, without being reduced to writing, and being stamped, no bargain, sale, transfer of property, or contract of any kind or nature whatsoever, shall be binding; and also that no exemplifications of records, depositions, or probates of any kind, shall be received in evidence, unless they have the same solemnity. They may likewise oblige all proceedings of a judicial nature to be stamped, to give them effect. Those stamp duties may be imposed to any amount they please; and under the pretence of securing the collections of these duties, and to prevent the laws which imposed them from being evaded, the Congress may bring the decision of all questions relating to the conveyance, disposition, and rights of property, and every question relating to contracts between man and man, into the courts of the general government — their inferior courts in the first instance, and the superior court by appeal. By the power to lay and collect imposts, they may impose duties on any or every article of commerce imported into these states, to what amount they please. By the power to lay excises, — a power very odious in its nature, since it authorizes officers to go into your houses, your kitchens, your cellars, and to examine into your private concerns, — the Congress may impose duties on every article of use or consumption, on the food that we eat, on the liquors that we drink, on the clothes that we wear, the glass which enlightens our houses, or the hearths necessary for our warmth and comfort. By the power to lay and collect taxes, they may proceed to direct taxation on every individual, either by a capitation tax on their heads, or an assessment on their property. By this part of the section, therefore, the government has power to lay what duties they please on goods imported; to lay what duties they please, afterwards, on whatever we use or consume; to impose stamp duties to what amount they please, and in whatever case they please; — afterwards, to impose on the people direct taxes, by capitation tax, or by assessment, to what amount they choose, and thus to sluice them at every vein as long as they have a drop of blood, without any control, limitation, or restraint; while all the officers for collecting these taxes, stamp duties, imposts, and excises, are to be appointed by the general government, under its directions, not accountable to the states; nor is there even a security that they shall be citizens of the respective states in which they are to exercise their offices. At the same time, the construction of every law imposing any and all these taxes and duties, and directing the collection of them, and every question

arising thereon, and on the conduct of the officers appointed to execute these laws, and to collect these taxes and duties, so various in their kinds, is taken away from the courts of justice of the different states, and confined to the courts of the general government, there to be heard and determined by judges holding their offices under the appointment, not of the states, but of the general government.

Many of the members, and myself in the number, thought that states were much better judges of the circumstances of their citizens, and what sum of money could be collected from them by direct taxation, and of the manner in which it could be raised with the greatest ease and convenience to their citizens, than the general government could be; and that the general government ought not to have the power of laying direct taxes in any case but in that of the delinquency of a state. Agreeably to this sentiment, I brought in a proposition on which a vote of the Convention was taken. The proposition was as follows: "And whenever the legislature of the United States shall find it necessary that revenue should be raised by direct taxation, having apportioned the same by the above rule, requisitions shall be made of the respective states to pay into the Continental treasury their respective quotas within a time in the said requisition to be specified; and in case of any of the states failing to comply with such requisition, then, and then only, to have power to devise and pass acts directing the mode and authorizing the collection of the same."

Had this proposition been acceded to, the dangerous and oppressive power in the general government of imposing direct taxes on the inhabitants, which it now enjoys in all cases, would have been only vested in it, in case of the non-compliance of a state, as a punishment for its delinquency, and would have ceased the moment that the state complied with the requisition. But the proposition was rejected by a majority, consistent with their aim and desire of increasing the power of the general government as far as possible, and destroying the powers and influence of the states. And though there is a provision that all duties, imposts, and excises, shall be uniform, — that is, to be laid to the same amount on the same articles in each state, — yet this will not prevent Congress from having it in their power to cause them to fall very unequally, and much heavier on some states than on others, because these duties may be laid on articles but little or not at all used in some states, and of absolute necessity for the use and consumption of others; in which case, the first would pay little or no part of the revenue arising therefrom, while the whole, or nearly the whole, of it would be paid by the last, to wit, the states which use and consume the articles on which the imposts and excises are laid.

By our original Articles of Confederation, the Congress have power to borrow money and emit bills of credit on the credit of the United States; agreeable to which was the report on this system, as made by the committee of detail. When we came to this part of the report, a motion was made to strike out the words "to emit *bills of credit*." Against the motion we urged, that it would be improper to deprive the Congress of that power; that it would be a novelty unprecedented to establish a government which should not have such authority; that it was impossible to look forward into futurity so far as to decide that events might not happen that should render the exercise of such a power absolutely necessary; and that we doubted whether, if a war should take place, it would be possible for this country to defend itself without having recourse to paper credit, in which case there would be a necessity of becoming a prey to our enemies,

or violating the constitution of our government; and that, considering the administration of the government would be principally in the hands of the wealthy, there could be little reason to fear an abuse of the power by an unnecessary or injurious exercise of it. But, sir, a majority of the Convention, being wise beyond every event, and being willing to risk any political evil rather than admit the idea of a paper emission in any possible case, refused to trust this authority to a government to which they were lavishing the most unlimited powers of taxation, and to the mercy of which they were willing blindly to trust the liberty and property of the citizens of every state in the Union; and they erased that clause from the system. Among other powers given to this government in the eighth section, it has that of appointing tribunals inferior to the Supreme Court. To this power there was an opposition. It was urged that there was no occasion for inferior courts of the general government to be appointed in the different states, and that such ought not to be admitted — that the different state judiciaries in the respective states would be competent to, and sufficient for, the cognizance in the first instance of all cases that should arise under the laws of the general government, which, being by this system made the supreme law of the states, would be binding on the different state judiciaries — that, by giving an appeal to the Supreme Court of the United States, the general government would have a sufficient check over their decisions, and security for the enforcing of their laws — that to have inferior courts appointed under the authority of Congress, in the different states, would eventually absorb and swallow up the state judiciaries, by drawing all business from them to the courts of the general government, which the extensive and undefined powers, legislative and judicial, of which it is possessed, would easily enable it to do — that it would unduly and dangerously increase the weight and influence of Congress in the several states; be productive of a prodigious number of officers; and be attended with an enormous additional and unnecessary expense — that, the judiciaries of the respective states not having power to decide upon the laws of the general government, but the determination of those laws being confined to the judiciaries appointed under the authority of Congress in the first instance, as well as on appeal, there would be a necessity for judges or magistrates of the general government, and those to a considerable number, in each county of every state — that there would be a necessity for courts to be holden by them in each county, and that these courts would stand in need of all proper officers, such as sheriffs, clerks, and others, commissioned under the authority of the general government — in fine, that the administration of justice, as it will relate to the laws of the general government, would require in each state all the magistrates, courts, officers, and expense, which are now found necessary, in the respective states, for the administration of justice as it relates to the laws of the state governments. But here, again, we were overruled by a majority, who, assuming it as a principle that the general government and the state governments (as long as they should exist) would be at perpetual variance and enmity, and that their interests would constantly be opposed to each other, insisted, for that reason, that the state judges, being citizens of their respective states, and holding their commissions under them, ought not, though acting on oath, to be intrusted with the administration of the laws of the general government.

By the eighth section of the first article, the Congress have also a power given them to raise and support *armies*, without any limitation as



to numbers, and without any restriction in time of peace. Thus, sir, this plan of government, instead of guarding against a standing army, — that engine of arbitrary power, which has so often and so successfully been used for the subversion of freedom, — has, in its formation, given it an express and constitutional sanction, and hath provided for its introduction. Nor could this be prevented. I took the sense of the Convention on a proposition, by which the Congress should not have power, in time of peace, to keep imbedded more than a certain number of regular troops, that number to be ascertained by what should be considered a respectable peace establishment. This proposition was rejected by a majority, it being their determination that the power of Congress to keep up a standing army, even in peace, should only be restrained by their will and pleasure.

This section proceeds, further, to give a power to the Congress to provide for the calling forth *the militia* to execute the laws of the Union, suppress insurrections, and repel invasions. As to giving such a power there was no objection; but it was thought by some that this power ought to be given with certain restrictions. It was thought that not more than a certain part of the militia of any one state ought to be obliged to march out of the same, or be employed out of the same, at any one time, without the consent of the legislature of such state. This amendment I endeavored to obtain; but it met with the same fate which attended almost every attempt to limit the powers given to the general government, and constitutionally to guard against their abuse: it was not adopted. As it now stands, the Congress will have the power, if they please, to march the whole militia of Maryland to the remotest part of the Union, and keep them in service as long as they think proper, without being in any respect dependent upon the government of Maryland for this unlimited exercise of power over its citizens — all of whom, from the lowest to the greatest, may, during such service, be subjected to military law, and tied up and whipped at the halbert, like the meanest of slaves.

By the next paragraph, Congress is to have the power to provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

For this extraordinary provision, by which the militia — the only defence and protection which the state can have for the security of their rights against arbitrary encroachments of the general government — is taken entirely out of the power of their respective states, and placed under the power of Congress, it was speciously assigned, as a reason, that the general government would cause the militia to be better regulated and better disciplined than the state governments, and that it would be proper for the whole militia of the Union to have a uniformity in their arms and exercise. To this it was answered, that the reason, however specious, was not just — that it would be absurd that the militia of the western settlements, who were exposed to an Indian enemy, should either be confined to the same arms or exercise as the militia of the Eastern or Middle States — that the same penalties which would be sufficient to enforce an obedience to militia laws in some states, would be totally disregarded in others — that, leaving the power to the several states, they would respectively best know the situation and circumstance of their citizens, and the regulations that would be necessary and sufficient to effect a well-regulated militia in each — that we were satisfied the militia had heretofore been as well disciplined as if they had been under the regulations of Congress — and that the states would now have an additional motive



to keep their militia in proper order, and fit for service, as it would be the only chance to preserve their existence against a general government, armed with powers sufficient to destroy them.

These observations, sir, procured from some of the members an open avowal of those reasons by which we believed, before, that they were actuated. They said that, as the states would be opposed to the general government, and at enmity with it, — which, as I have already observed, they assumed as a principle, — if the militia was under the control and the authority of the respective states, it would enable them to thwart and oppose the general government. They said the states ought to be at the mercy of the general government, and therefore that the militia ought to be put under its power, and not suffered to remain under the power of the respective states. In answer to these declarations, it was urged that if, after having retained to the general government the great powers already granted, — and among those, that of raising and keeping up regular troops without limitation, — the power over the militia should be taken away from the states, and also given to the general government, it ought to be considered as the last *coup de grace* to the state governments; that it must be the most convincing proof, the advocates of this system design the *destruction* of the state governments, and that no professions to the contrary ought to be trusted; and that every state in the Union ought to reject such a system with indignation, since, if the general government should attempt to oppress and enslave them, they could not have any possible means of self-defence; because the proposed system, taking away from the states the right of organizing, arming, and disciplining of the militia, the first attempt made by a state to put the militia in a situation to counteract the arbitrary measures of the general government would be construed into an act of rebellion or treason, and Congress would instantly march their troops into the state. It was further observed that, when a government wishes to deprive their citizens of freedom, and reduce them to slavery, it generally makes use of a standing army for that purpose, and leaves the militia in a situation as contemptible as possible, lest they might oppose its arbitrary designs — that in this system we give the general government every provision it could wish for, and even invite it to subvert the liberties of the states and their citizens, since we give it the right to increase and keep up a standing army as numerous as it would wish, and, by placing the militia under its power, enable it to leave the militia totally unorganized, undisciplined, and even to disarm them; while the citizens, so far from complaining of this neglect, might even esteem it a favor in the general government, as thereby they would be freed from the burden of militia duties, and left to their own private occupations and pleasures. However, all arguments, and every reason which could be urged on this subject, as well as on many others, were obliged to yield to one that was *unanswerable*, a *majority* upon the division.

By the ninth section of this article, the importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited prior to the year one thousand eight hundred and eight; but a duty may be imposed on such importation not exceeding ten dollars each person.

The design of this clause is to prevent the general government from prohibiting the importation of *slaves*; but the same reasons which caused them to strike out the word "*national*," and not admit the word "*stamps*," influenced them here to guard against the word "*slaves*." They anx-

ously sought to avoid the admission of expressions which might be *odious* in the ears of Americans, although they were willing to admit into their system those things which the expressions signified; and hence it is that the clause is so worded as really to authorize the general government to impose a duty of ten dollars on every foreigner who comes into a state to become a citizen, whether he comes absolutely free, or qualifiedly so as a servant; although this is contrary to the design of the framers, and the duty was only meant to extend to the importation of *slaves*.

This clause was the subject of a great diversity of sentiment in the Convention. As the system was reported by the committee of detail, the provision was general, that such importation should not be prohibited, without confining it to any particular period. This was rejected by *eight* states—Georgia, South Carolina, and, *I think*, North Carolina, voting for it.

We were then told by the delegates of the *two first* of those states, that their states would never agree to a system which put it in the power of the general government to prevent the importation of *slaves*, and that they, as delegates from those states, must withhold their assent from such a system.

A committee of *one* member from each state was chosen by ballot, to take this part of the system under their consideration, and to endeavor to agree upon some report which should reconcile those states. To this committee also was referred the following proposition, which had been reported by the committee of detail, viz.: “No navigation act shall be passed without the assent of two thirds of the members present in each house”—a proposition which the staple and commercial states were solicitous to retain, lest their commerce should be placed too much under the power of the Eastern States, but which these last states were as anxious to reject. This committee—of which also I had the honor to be a member—met, and took under their consideration the subjects committed to them. I found the *Eastern* States, notwithstanding their *aversion to slavery*, were very willing to indulge the Southern States at least with a temporary liberty to prosecute the slave trade, provided the Southern States would, in their turn, gratify *them*, by laying no restriction on navigation acts; and after a very little time, the committee, by a great majority, agreed on a report, by which the general government was to be prohibited from preventing the importation of slaves for a limited time, and the restrictive clause relative to navigation acts was to be omitted.

This report was adopted by a majority of the Convention, but not without considerable opposition. It was said that we had just assumed a place among independent nations, in consequence of our opposition to the attempts of Great Britain to *enslave us*; that this opposition was grounded upon the preservation of those rights to which God and nature had entitled us, not in *particular*, but in *common* with the rest of all mankind—that we had appealed to the Supreme Being for his assistance, as the God of freedom, who could not but approve our efforts to preserve the *rights* which he had thus imparted to his creatures—that now, when we scarcely had risen from our knees, from supplicating his aid and protection, in forming our government over a free people,—a government formed *pre-erudently* upon the principles of liberty, and for its preservation,—in that government to have a provision not only putting it out of its power to restrain and prevent the slave trade, but even encouraging that most infa-

mous traffic, by giving the states power and influence in the Union in proportion as they cruelly and wantonly sport with the rights of their fellow-creatures, ought to be considered as a solemn mockery of, and insult to, that God whose protection we had then implored; and could not fail to hold us up in detestation, and render us contemptible to every true friend of liberty in the world. It was said, it ought to be considered, that national crimes can only be, and frequently are, punished in this world by national punishments; and that the continuance of the slave trade, and thus giving it a national *sanction and encouragement*, ought to be considered as justly exposing us to the displeasure and vengeance of Him who is equally Lord of all, and who views with equal eye the poor African slave and his American master.

It was urged that, by this system, we were giving the general government full and absolute power to regulate commerce, under which general power it would have a right to restrain, or totally prohibit, the slave trade; it must therefore appear to the world absurd and disgraceful, to the last degree, that we should except from the exercise of that power the only branch of commerce which is unjustifiable in its nature, and contrary to the rights of mankind — that, on the contrary, we ought rather to prohibit expressly, in our Constitution, the further importation of slaves; and to authorize the general government, from time to time, to make such regulations as should be thought most advantageous for the gradual abolition of slavery, and the emancipation of the slaves which are already in the states — that slavery is inconsistent with the genius of republicanism, and has a tendency to destroy those principles on which it is supported, as it lessens the sense of the equal rights of mankind, and habituates us to tyranny and oppression. It was further urged that, by this system of government, every state is to be protected both from foreign invasion and from domestic insurrections; that, from this consideration, it was of the utmost importance it should have a power to restrain the importation of slaves, since, in proportion as the number of slaves was increased in any state, in the same proportion the state is weakened and exposed to foreign invasion or domestic insurrection, and by so much less will it be able to protect itself against either; and therefore will, by so much the more, want aid from, and be a burden to, the Union. It was further said that as, in this system, we were giving the general government a power, under the idea of national character or national interest, to regulate even our *weights and measures*, and have prohibited all possibility of emitting paper money, and passing insolvent laws, &c., it must appear still more extraordinary, that we should prohibit the government from interfering with the slave trade, than which nothing could so materially affect both our national honor and interest. These reasons influenced me, both on the committee and in Convention, most decidedly to oppose and vote against the clause, as it now makes a part of the system.

You will perceive, sir, not only that the general government is prohibited from interfering in the slave trade before the year eighteen hundred and eight, but that there is no provision in the Constitution that it shall afterwards be prohibited, nor any security that such prohibition will ever take place; and I think there is great reason to believe that, if the importation of slaves is permitted until the year eighteen hundred and eight, it will not be prohibited afterwards. At this time we do not generally hold this commerce in so great abhorrence as we have done. When our liberties were at stake, we warmly felt for the common rights of men. The



danger being thought to be past which threatened ourselves, we are daily growing more insensible to those rights. In those states which have restrained or prohibited the importation of slaves, it is only done by legislative acts which may be repealed. When those states find that they must in their national character and connection, suffer in the disgrace, and share in the inconveniences, attendant upon that detestable and iniquitous traffic, they may be desirous also to share in the benefits arising from it; and the odium attending it will be greatly effaced by the sanction which is given to it in the general government.

By the next paragraph, the general government is to have a power of suspending the *habeas corpus* act, in cases of *rebellion* or *invasion*.

As the state governments have a power of suspending the *habeas corpus* act in those cases, it was said there could be no reason for giving such a power to the general government, since, whenever the state which is invaded, or in which an insurrection takes place, finds its safety requires it, it will make use of that power; and it was urged that, if we gave this power to the general government, it would be an engine of oppression in its hands, since, whenever a state should oppose its views, however arbitrary and unconstitutional, and refuse submission to them, the general government may declare it an act of rebellion, and, suspending the *habeas corpus* act, may seize upon the persons of those advocates of freedom who have had virtue and resolution enough to excite the opposition, and may imprison them during its pleasure in the remotest part of the Union, so that a citizen of Georgia might be *Bastiled* in the farthest part of New Hampshire, or a citizen of New Hampshire in the farthest extreme to the south, — cut off from their family, their friends, and their every connection. These considerations induced me, sir, to give my negative also to this clause.

In this same section, there is a provision that no preference shall be given to the ports of *one state* over *another*, and that vessels bound to or from one state shall not be obliged to enter, clear, or pay duties, in another. This provision, as well as that which relates to the uniformity of impost duties and excises, was introduced, sir, by the delegation of this state. Without such a provision, it would have been in the power of the general government to compel all ships sailing into or out of the Chesapeake, to clear and enter at Norfolk, or some port in Virginia — a regulation which would be extremely injurious to our commerce, but which would, if considered merely as to the interest of the Union, perhaps not be thought unreasonable, since it would render the collection of the revenue arising from commerce more certain and less expensive.

But, sir, as the system is now reported, the general government have a power to establish what ports they please in each state, and to ascertain at what ports in every state ships shall clear and enter in such state — a power which may be so used as to destroy the effect of that provision, since by it may be established a port in such a place as shall be so inconvenient to the states as to render it more eligible for their shipping to clear and enter in another than in their own states. Suppose, for instance, the general government should determine that all ships which cleared or entered in Maryland should clear and enter at Georgetown, on the Potomac; it would oblige all the ships which sailed from, or were bound to, any other port of Maryland, to clear or enter in some port in Virginia. To prevent such a use of the power which the general government now has of limiting the number of ports in a state, and fixing the place or places



where they shall be, we endeavored to obtain a provision, that the general government should only, in the first instance, have authority to ascertain the number of ports proper to be established in each state, and transmit information thereof to the several states, the legislatures of which, respectively, should have the power to fix the places where those ports should be, according to their idea of what would be most advantageous to the commerce of their state, and most for the ease and convenience of their citizens; and that the general government should not interfere in the establishment of the places, unless the legislature of the state should neglect or refuse so to do; but we could not obtain this alteration.

By the tenth section, every state is prohibited from emitting bills of credit. As it was reported by the committee of detail, the states were only prohibited from emitting them without the consent of Congress; but the Convention was so smitten with the paper-money dread, that they insisted the prohibition should be absolute. It was my opinion, sir, that the states ought not to be totally deprived of the right to emit bills of credit, and that, as we had not given an authority to the general government for that purpose, it was the more necessary to retain it in the states. I considered that this state, and some others, have formerly received great benefit from paper emissions, and that, if public and private credit should once more be restored, such emissions may hereafter be equally advantageous; and further, that it is impossible to foresee that events may not take place which shall render paper money of absolute necessity; and it was my opinion, if this power was not to be exercised by a state without the permission of the *general government*, it ought to be satisfactory even to those who were the most haunted by the apprehensions of paper money. I therefore thought it my duty to vote against this part of the system.

The same section also puts it out of the power of the states to make any thing but gold and silver coin a tender in payment of debts, or to pass any law impairing the *obligation of contracts*.

I considered, sir, that there might be times of such great public calamities and distress, and of such extreme scarcity of specie, as should render it the duty of a government, for the preservation of even the most valuable part of its citizens, in some measure to interfere in their favor, by passing laws totally or partially stopping courts of justice; or authorizing the debtor to pay by instalments, or by delivering up his property to his creditors at a reasonable and honest valuation. The times have been such as to render regulations of this kind necessary in *most* or *all* of the states, to prevent the wealthy creditor and the moneyed man from totally destroying the poor, though industrious debtor. Such times may again arrive. I therefore voted against depriving the states of this power — a power which I am decided they ought to possess, but which, I admit, ought only to be exercised on very important and urgent occasions. I apprehend, sir, the principal cause of complaint among the people at large is, the public and private debt with which they are oppressed, and which, in the present scarcity of cash, threatens them with destruction, unless they can obtain so much indulgence, in point of time, that, by *industry* and *frugality*, they may extricate themselves.

This government proposal, I apprehend, so far from removing, will greatly increase those complaints, since, grasping in its all-powerful hand the citizens of the respective states, it will, by the imposition of the variety of taxes, imposts, stamps, excises, and other duties, squeeze from them the little money they may acquire, the hard earnings of their in-

dustry, as you would squeeze the juice from an orange, till not a drop more can be extracted; and then let loose upon them their private creditors, to whose mercy it consigns them, by whom their property is to be seized upon and sold, in this *scarcity of specie*, at a *sheriff's sale*, where nothing but ready cash can be received, *for a tenth part of its value*, and themselves and their families to be consigned to indigence and distress, without their governments having a power to give them a moment's indulgence, however necessary it might be, and however desirous to grant them aid.

By this same section, every state is also prohibited from laying any imposts, or duties, on imports or exports, without the permission of the general government. It was urged that, as almost all sources of taxation were given to Congress, it would be but reasonable to leave the states the power of bringing revenue into their treasuries by laying a duty on exports, if they should think proper, which might be so light as not to injure or discourage industry, and yet might be productive of considerable revenue; also, that there might be cases in which it would be proper, for the purpose of encouraging manufactures, to lay duties to prohibit the exportation of raw materials, and, even in addition to the duties laid by Congress on imports, for the sake of revenue, to lay a duty to discourage the importation of particular articles into a state, or to enable the manufacturer here to supply us on as good terms as they could be obtained from a foreign market. However, the most we could obtain was, that this power might be exercised by the states with, and only with, the consent of Congress, and subject to its control; and so anxious were they to seize on every shilling of our money for the general government, that they insisted even the little revenue, that might thus arise, should not be appropriated to the use of the respective states where it was collected, but should be paid into the treasury of the United States; and accordingly it is so determined.

The second article relates to the *executive* — his mode of election, his powers, and the length of time he should continue in office.

On these subjects there was a great diversity of sentiment. Many of the members were desirous that the President should be elected for seven years, and not to be eligible a second time. Others proposed that he should not be absolutely ineligible, but that he should not be capable of being chosen a second time, until the expiration of a certain number of years. The supporters of the above proposition went upon the idea that the best security for liberty was a limited duration, and a rotation of office, in the chief executive department.

There was a party who attempted to have the President appointed during good behavior, without any limitation as to time; and, not being able to succeed in that attempt, they then endeavored to have him reëligible without any restraint. It was objected that the choice of a President to continue in office during good behavior, would at once be rendering our system an elective monarchy; and that, if the President was to be reëligible without any interval of disqualification, it would amount nearly to the same thing, since, from the powers that the President is to enjoy, and the interests and influence with which they will be attended, he will be almost absolutely certain of being reëlected from time to time, as long as he lives. As the propositions were reported by the committee of the whole house, the President was to be chosen for seven years, and not to be eligible at any time after. In the same manner, the proposition

was agreed to in Convention ; and so it was reported by the committee of detail, although a variety of attempts were made to alter that part of the system by those who were of a contrary opinion, in which they repeatedly failed ; but, sir, by never losing sight of their object, and choosing a proper time for their purpose, they succeeded, at length, in obtaining the alteration, which was not made until within the last twelve days before the Convention adjourned.

As these propositions were agreed to by the committee of the whole house, the President was to be appointed by the national legislature ; and, as it was reported by the committee of detail, the choice was to be made by ballot, in such a manner that the states should have an equal voice in the appointment of this officer, as they, of right, ought to have ; but those who wished, as far as possible, to establish a *national* instead of a *federal* government, made repeated attempts to have the President chosen by the people at large. On this the sense of the Convention was taken, I think, not less than three times while I was there, and as often rejected ; but within the last fortnight of their session, they obtained the alteration in the manner it now stands, by which the large states have a very undue influence in the appointment of the President. There is no case where the states will have an equal voice in the appointment of the President, except where two persons shall have an equal number of votes, and those a majority of the whole number of electors, — a case very unlikely to happen, — or where no person has the majority of the votes. In these instances, the House of Representatives are to choose by ballot, each state having an equal voice ; but they are confined, in the last instance, to the five who have the greatest number of votes, which gives the largest states a very unequal chance of having the President chosen under their nomination.

As to the Vice-President, — that great officer of government, who is, in case of the death, resignation, removal, or inability, of the President, to supply his place, and be vested with his powers, and who is officially to be president of the Senate, — there is no provision by which a majority of the voices of the electors are necessary to his appointment ; but after it is decided who is chosen President, that person who has the next number of votes of the electors is declared to be legally elected to the vice-presidency ; so that, by this system, it is very possible, and not improbable, that he might be appointed by the electors of a single large state ; and a very undue influence in the Senate is given to that state of which the Vice-President is a citizen, since, in every question where the Senate is divided, that state will have two votes — the president having, on those occasions, a casting voice. Every part of the system which relates to the Vice-President, as well as the present mode of electing the President, was introduced and agreed upon after I left Philadelphia.

Objections were made to that part of this article by which the President is appointed commander-in-chief of the army and navy of the United States, and of the militia of the several states ; and it was wished to be so far restrained, that he should not command in person ; but this could not be obtained. The power given to the President of granting *reprieves* and *pardons* was also thought extremely dangerous, and as such opposed. The President thereby has the power of pardoning those who are guilty of treason, as well as of other offences. It was said that no treason was so likely to take place as that in which the President himself might be engaged — the attempt to assume to himself powers not given by the



Constitution, and establish himself in regal authority; in which attempt a provision is made for him to secure from punishment the creatures of his ambition, the associates and abettors of his treasonable practices, by granting them pardons, should they be defeated in their attempts to subvert the Constitution.

To that part of this article, also, which gives the President a right to *nominate*, and with the consent of the Senate to appoint, all the officers, civil and military, of the United States, there was considerable opposition. It was said that the person who *nominates* will always in reality *appoint*, and that this was giving the President a power and influence which, together with the other powers bestowed upon him, would place him above all restraint or control. In fine, it was urged that the President, as here constituted, was a *king* in every thing but the name; that though he was to be chosen for a limited time, yet, at the expiration of that time, if he is not reëlected, it will depend entirely upon his own moderation whether he will resign that authority with which he has once been invested—that, from his having the appointment of all the variety of officers in every part of the civil department for the Union, who will be very numerous in themselves and their connections, relations, friends, and dependants, he will have a formidable host devoted to his interest, and ready to support his ambitious views—that the army and navy, which may be increased without restraint as to numbers; the officers of which, from the highest to the lowest, are all to be appointed by him, and dependent on his will and pleasure, and commanded by him in person, will, of course, be subservient to his wishes, and ready to execute his commands; in addition to which, the militia are also entirely subjected to his orders—that these circumstances, combined together, will enable him, when he pleases, to become a *king* in *name*, as well as in *substance*, and establish himself in office not only for his own life, but even, if he chooses, to have that authority perpetuated to his family.

It was further observed, that the only appearance of *responsibility* in the President, which the system holds up to our view, is the provision for impeachment; but that, when we reflect that he cannot be impeached but by the House of Delegates, and that the members of this house are rendered dependent upon, and unduly under the influence of, the President, by being appointable to offices of which he has the sole nomination, so that, without his favor and approbation, they cannot obtain them, there is little reason to believe that a majority will ever concur in impeaching the President, let his conduct be ever so reprehensible; especially, too, as the final event of that impeachment will depend upon a different body, and the members of the House of Delegates will be certain, should the decision be ultimately in favor of the President, to become thereby the objects of his displeasure, and to bar to themselves every avenue to the emoluments of government.

Should he, contrary to probability, be impeached, he is afterwards to be tried and adjudged by the Senate, and without the concurrence of two thirds of the members who shall be present, he cannot be convicted. This Senate being constituted a privy council to the President, it is probable many of its leading and influential members may have advised or concurred in the very measures for which he may be impeached. The members of the Senate also are, by the system, placed as unduly under the influence of, and dependent upon, the President, as the members of the other branch, since they also are appointable to offices, and cannot obtain them but through the favor of the President.



There will be great, important, and valuable offices under this government, should it take place, more than sufficient to enable him to hold out the expectation of one of them to *each* of the *senators*. Under these circumstances, will any person conceive it to be difficult for the President always to secure to himself more than one third of that body? Or can it reasonably be believed that a criminal will be convicted, who is constitutionally empowered to bribe his judges, at the head of whom is to preside, on those occasions, the chief justice — which officer, in his original appointment, must be *nominated* by the President, and will, therefore, probably, be appointed, not so much for his eminence in legal knowledge, and for his integrity, as from favoritism and influence; since the President, knowing that, in case of impeachment, the chief justice is to preside at his trial, will naturally wish to fill that office with a person of whose voice and influence he shall consider himself secure. These are reasons to induce a belief that there will be but little probability of the President ever being either impeached or convicted. But it was also urged that, vested with the powers which the system gives him, and with the influence attendant upon those powers, to him it would be of little consequence whether he was impeached or convicted, since he will be able to set both at defiance. These considerations occasioned a part of the Convention to give a negative to this part of the system establishing the executive as it is now offered for our acceptance.

By the *third article*, the judicial power of the United States is vested in *one Supreme Court*, and in such *inferior courts* as the Congress may, from time to time, ordain and establish. These courts, and these only, will have a right to decide upon the laws of the United States, and all questions arising upon their construction, and in a judicial manner to carry those laws into execution; to which the courts, both superior and inferior, of the respective states, and their judges and other magistrates, are rendered incompetent. To the courts of the general government are also *confined* all cases, in law or equity, arising under the proposed Constitution and treaties made under the authority of the United States — all cases affecting ambassadors, other public ministers, and consuls — all cases of admiralty and maritime jurisdiction — all controversies to which the United States are a party — all controversies between two or more states; between citizens of the same state, claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects. Whether, therefore, any laws or *regulations* of the Congress, any acts of *its President* or *other officers*, are contrary to, or not warranted by, the Constitution, rests only with the judges, who are appointed by Congress, to determine; by whose determinations every state must *be bound*. Should any question arise between a *foreign consul* and any of the citizens of the United States, however remote from the seat of empire, it is to be heard before the judiciary of the general government, and, in the first instance, to be heard in the Supreme Court, however inconvenient to the parties, and however trifling the subject of dispute.

Should the mariners of an American or foreign vessel, while in any American port, have occasion to sue for their wages, or, in any other instance, a controversy belonging to the admiralty jurisdiction should take place between them and their masters or owners, it is in the courts of the general government the suit must be instituted; and either party may carry it by appeal to its Supreme Court. The injury to commerce, and the oppression to individuals, which may thence arise, need not be enlarged

upon. Should a citizen of Virginia, Pennsylvania, or any other of the United States, be indebted to, or have debts due from, a citizen of this state, or any other claim be subsisting on one side or the other, in consequence of commercial or other transactions, it is only in the courts of Congress that either can apply for redress. The case is the same should any claim subsist between citizens of this state and foreigners, merchants, mariners, and others, whether of a commercial or of any other nature they must be prosecuted in the same courts; and, though in the first instance they may be brought in the inferior, yet an appeal may be made to the supreme judiciary, even from the remotest state in the Union.

The inquiry concerning, and trial of, every offence against, and breach of, the laws of Congress, are also *confined* to its courts. The same courts also have the sole right to inquire concerning and try every offence, from the lowest to the highest, committed by the citizens of any other state, or of a foreign nation, against the laws of this state within its territory; and in *all these cases* the decision may be ultimately brought before the supreme tribunal, since the *appellate jurisdiction* extends to criminal as well as to civil cases.

And in all those cases, where the general government has jurisdiction in civil questions, the proposed Constitution not only makes no provision for the trial by jury in the first instance, but, by its appellate jurisdiction, absolutely takes away that inestimable privilege, since it expressly declares the Supreme Court shall have appellate jurisdiction both as to law and fact. Should, therefore, a jury be adopted in the inferior court, it would only be a needless expense, since, on an appeal, the determination of that jury, even on questions of fact, however honest and upright, is to be of no possible effect. The Supreme Court is to take up all questions of fact; to examine the evidence relative thereto; to decide upon them, in the same manner as if they had never been tried by a jury. Nor is trial by jury secured in criminal cases. It is true that, in the first instance, in the inferior court, the trial is to be by jury. In this, and in this only, is the difference between criminal and civil cases. But, sir, the appellate jurisdiction extends, as I have observed, to cases criminal, as well as civil, and on the appeal the court is to decide not only on the law but on the fact. If, therefore, even in criminal cases, the general government is not satisfied with the verdict of the jury, its officer may remove the prosecution to the Supreme Court; and there the *verdict of the jury is to be of no effect*, but the judges of this court are to decide upon the fact as well as the law, the same as in civil cases.

Thus, sir, jury trials, which have ever been the boast of the English constitution, — which have been by our several state constitutions so cautiously secured to us, — jury trials, which have so long been considered the surest barrier against arbitrary power, and the palladium of liberty, with the loss of which the loss of our freedom may be dated, are taken away by the proposed form of government, not only in a great variety of questions between individual and individual, but in every case, whether civil or criminal, arising under the laws of the United States, or the execution of those laws. It is taken away in those very cases where, of all others, it is most essential for our liberty to have it sacredly guarded and preserved; in every case, whether civil or criminal, between government and its officers on the one part, and the subject or citizen on the other. Nor was this the effect of inattention, nor did it arise from any real difficulty in establishing and securing jury trials by the proposed Constitution.

if the Convention had wished so to do; but the same reason influenced here as in the case of the establishment of the inferior courts. As they could not trust state judges, so would they not confide in state juries. They alleged that the general government and the state governments would always be at variance — that the citizens of the different states would enter into the views and interests of their respective states, and therefore ought not to be trusted in determining causes in which the general government was any way interested, without giving the general government an opportunity, if it disapproved the verdict of the jury, to appeal, and to have the facts examined into again, and decided upon by its own judges, on whom it was thought a reliance might be had by the general government, they being appointed under its authority.

Thus, sir, in consequence of this appellate jurisdiction, and its extension to facts as well as to law, every arbitrary act of the general government, and every oppression of all that variety of officers appointed under its authority for the collection of taxes, duties, impost, excise, and other purposes, must be submitted to by the individual, or must be opposed with little prospect of success, and almost a certain prospect of ruin, at least in those cases where the middle and common class of citizens are interested. Since, to avoid that oppression, or to obtain redress, the application must be made to one of the courts of the United States, — by good fortune, should this application be in the first instance attended with success, and should damages be recovered equivalent to the injury sustained, an appeal lies to the Supreme Court, in which case the citizen must at once give up his cause, or he must attend to it at the distance, perhaps, of more than a thousand miles from the place of his residence, and must take measures to procure before that court, on the appeal, all the evidence necessary to support his action, which, even if ultimately prosperous, must be attended with a loss of time, a neglect of business, and an expense, which will be greater than the original grievance, and to which men in moderate circumstances would be utterly unequal.

By the third section of this article, it is declared that *treason* against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid or comfort.

By the principles of the American revolution, arbitrary power may, and ought to, be resisted even by arms, if necessary. The time may come when it shall be the duty of a state, in order to preserve itself from the oppression of the general government, to have recourse to the sword; in which case, the proposed form of government declares, that the state, and every one of its citizens who acts under its authority, are guilty of a direct act of treason; reducing, by this provision, the different states to this alternative, — that they must tamely and passively yield to despotism, or their citizens must oppose it at the hazard of the halter, if unsuccessful; and reducing the citizens of the state which shall take arms to a situation in which they must be exposed to punishment, let them act as they will — since, if they obey the authority of their state government, they will be *guilty of treason against the United States*; if they join the general government, they will be guilty of treason against their own state.

To save the citizens of the respective states from this disagreeable dilemma, and to secure them from being punishable as *traitors* to the *United States*, when acting expressly in obedience to the authority of their own state, I wished to have obtained, as an amendment to the third section of this article, the following clause: —



“ *Provided*, That no act or acts done by one or more of the states against the United States, or by any citizen of any one of the United States, under the authority of one or more of the said states, shall be deemed *treason*, or *punished as such*; but in case of war being levied by one or more of the states against the United States, the conduct of each party towards the other, and their adherents respectively, shall be regulated by the laws of war and of nations.”

But this provision was not adopted, being too much opposed to the great object of many of the leading members of the Convention, which was, by all means to leave the states at the mercy of the *general government*, since they could not succeed in their immediate and entire abolition.

By the third section of the fourth article no new state shall be formed or erected within the jurisdiction of any other state, without the consent of the legislature of such state.

There are a number of states which are so circumstanced, with respect to themselves and to the other states, that every principle of justice and sound policy requires their dismemberment, or division into smaller states. Massachusetts is divided into two districts, totally separated from each other by the state of New Hampshire, on the north-east side of which lie the provinces of Maine and Sagadahock, more extensive in point of territory, but less populous, than old Massachusetts, which lies on the other side of New Hampshire. No person can cast his eye on the map of that state, but he must in a moment admit, that every argument drawn from convenience, interest, and justice, requires that the provinces of Maine and Sagadahock should be erected into a new state, and that they should not be compelled to remain connected with old Massachusetts, under all the inconveniences of their situation.

The state of Georgia is larger in extent than the whole island of Great Britain, extending from its sea-coast to the Mississippi, a distance of eight hundred miles or more: its breadth, for the most part, about three hundred miles. The states of North Carolina and Virginia, in the same manner, reach from the sea-coast unto the Mississippi.

The hardship, the inconvenience, and the injustice, of compelling the inhabitants of those states who may dwell on the western side of the mountains, and along the Ohio and Mississippi Rivers, to remain connected with the inhabitants of those states, respectively, on the Atlantic side of the mountains, and subject to the same state governments, would be such as would, in my opinion, justify even recourse to arms, to free themselves from, and to shake off, so ignominious a yoke.

This representation was made in Convention; and it was further urged, that the territory of these states was too large, and that the inhabitants thereof would be too much disconnected for a republican government to extend to them its benefits, which is only suited to a small and compact territory — that a regard also for the peace and safety of the Union ought to excite a desire that those states should become, in time, divided into separate states; since, when their population should become proportioned in degree to their territory, they would, from their strength and power, become dangerous members of a federal government. It was further said that, if the general government was not, by its Constitution, to interfere, the inconvenience would soon remedy itself; for that, as the population increased in those states, their legislatures would be obliged to consent to the erection of new states, to avoid the evils of a civil war. But as,



by the proposed Constitution, the general government is obliged to protect each state against domestic violence, and consequently will be obliged to assist in suppressing such commotions and insurrections as may take place from the struggle to have new states erected, the general government ought to have a power to decide upon the propriety and necessity of establishing or erecting a new state, even without the approbation of the legislature of such states within whose jurisdiction the new state should be erected; and for this purpose I submitted to the Convention the following proposition: "That, on the application of the inhabitants of any district of territory within the limits of any of the states, it shall be lawful for the legislature of the United States — if they shall, under all circumstances, think it reasonable — to erect the same into a new state, and admit it into the Union, *without the consent* of the state of which the said district may be a part." And it was said, that we surely might trust the general government with *this power with more propriety* than with *many others* with which they were proposed to be intrusted; and that, as the general government was bound to suppress all insurrections and commotions which might arise on this subject, it ought to be in the power of the general government to decide upon it, and not in the power of the legislature of a single state, by obstinately and unreasonably opposing the erection of a new state, to prevent its taking effect, and thereby extremely to *oppress* that part of its citizens which live remote from and inconvenient to the seat of its government, and even *to involve the Union in war* to support its injustice and oppression. But, upon the vote being taken, Georgia, South Carolina, North Carolina, Virginia, Pennsylvania, Massachusetts, were in the *negative*. New Hampshire, Connecticut, Jersey, Delaware, and Maryland, were in the *affirmative*. New York was absent.

That it was inconsistent with the rights of free and independent states to have their territory dismembered without their consent, was the principal argument used by the opponents of this proposition. The truth of the objection we readily admitted, but at the same time insisted that it was not *more inconsistent* with the rights of free and independent states than that *inequality of suffrage* and power which the larger states had extorted from the others; and that, if the smaller states yielded up their rights in that instance, they were entitled to demand from the states of extensive territory a surrender of their rights in this instance; and in a particular manner, as it was *equally necessary* for the true interest and happiness of the citizens of their own states, as of the Union. But, sir, although, when the large states demanded undue and improper sacrifices to be made to their pride and ambition, they treated the rights of free states with more contempt than ever a British Parliament treated the rights of her colonial establishment, yet, when a *reasonable* and *necessary sacrifice* was asked from them, they spurned the idea with ineffable disdain. They then perfectly understood the full value and the sacred obligation of state rights, and at the least attempt to infringe them, where they were concerned, they were tremblingly alive, and agonized at every pore.

When we reflect how obstinately those states contended for that *unjust superiority* of power in the government which they have in part obtained, and for the establishment of this superiority by the Constitution; when we reflect that they appeared willing to hazard the existence of the Union rather than not to succeed in their unjust attempt; that, should their legislatures consent to the erection of new states within their jurisdiction, it

would be an immediate sacrifice of that power, to obtain which they appeared disposed to sacrifice every other consideration; when we further reflect that they now have a motive for desiring to preserve their territory entire and unbroken which they never had before, — the gratification of their ambition in possessing and exercising superior power over their sister states, — and that this Constitution is to give them the means to effect this desire of which they were formerly destitute, — the whole force of the United States pledged to them for restraining intestine commotions, and preserving to them the obedience and subjection of their citizens, even in the extremest part of their territory; — I say, sir, when we consider these things, it would be too absurd and improbable to deserve a serious answer, should any person suggest that these states mean ever to give their consent to the erection of new states within their territory. Some of them, it is true, have been, for some time past, amusing their inhabitants in those districts that wish to be erected into new states; but should this Constitution be adopted *armed with a sword and halter*, to compel their obedience and subjection, they will no longer act with indecision; and the state of Maryland may, and probably will, be called upon to assist, with her wealth and her blood, in subduing the inhabitants of Franklin, Kentucky, Vermont, and the provinces of Maine and Sagadahock, in compelling them to continue in subjection to the states which respectively claim jurisdiction over them.

Let it not be forgotten, at the same time, that a great part of the territory of these large and extensive states, which they now hold in possession, and over which they now claim and exercise jurisdiction, were crown lands, unlocated and unsettled when the American revolution took place — lands which were acquired by the *common blood and treasure*, and which ought to have been the *common stock*, and for the *common benefit* of the Union. Let it be remembered that the state of Maryland was so deeply sensible of the injustice that these lands should be held by particular states for their own emolument, even at a time when no superiority of authority or power was annexed to extensive territory, that, in the midst of the late war, and all the dangers which threatened us, it withheld for a long time its assent to the Articles of Confederation for that reason, and, when it ratified those Articles, it entered a solemn protest against what it considered so *flagrant injustice*. But, sir, the question is not now whether those states shall hold that territory unjustly to themselves, but whether, by that act of injustice, they shall have superiority of power and influence over the other states, and have a constitutional right to domineer and lord it over them — nay, more, whether we will agree to a form of government by which we pledge to those states the whole force of the Union to preserve to them their extensive territory entire and unbroken, and with our blood and wealth to assist them, whenever they please to demand it, to preserve the inhabitants thereof under their subjection, for the purpose of increasing their superiority over us — of gratifying their unjust ambition — in a word, for the purpose of giving ourselves masters, and of riveting our chains!

The part of the system, which provides that no *religious test* shall ever be required as a qualification to any office or public trust under the United States, was adopted by a great majority of the Convention, and without much debate. However, there were some members so unfashionable as to think that a belief of the existence of a Deity, and of a state of future rewards and punishments, would be some security for the good

conduct of our rulers, and that, in a Christian country, it would be at least decent to hold out some distinction between the professors of Christianity and downright infidelity or paganism.

The *seventh article* declares, that the ratification of nine states shall be sufficient for the establishment of this Constitution, between the states ratifying the same.

It was attempted to obtain a resolve that, if seven states, whose votes in the first branch should amount to a majority of the representation in that branch, concurred in the adoption of the system, it should be sufficient, and this attempt was supported on the principle, that a majority ought to govern the minority; but to this it was objected that, although it was true, after a constitution and form of government is agreed on, in every act done under and consistent with that constitution and form of government, the act of the majority, unless otherwise agreed in the constitution, should bind the minority, yet it was directly the reverse in originally forming a constitution, or dissolving it — that, in originally forming a constitution, it was necessary that every individual should agree to it, to become bound thereby, and that, when once adopted, it could not be dissolved by consent, unless with the consent of every individual who was party to the original agreement — that, in forming our original federal government, every member of that government (that is, each state) expressly consented to it — that it is a part of the compact, made and entered into in the most solemn manner, that there should be no dissolution or alteration of that federal government without the consent of every state, the members of, and parties to, the original compact — that, therefore, no alteration could be made by the consent of a part of these states, or by the consent of the inhabitants of a part of the states, which could either release the states so consenting from the obligation they are under to the other states, or which could in any manner become obligatory upon those states that should not ratify such alterations. Satisfied of the truth of these positions, and not holding ourselves at liberty to violate the compact, which this state had solemnly entered into with the others, by altering it in a different manner from that which, by the same compact, is provided and stipulated, a number of the members, and among those the delegation of this state, opposed the ratification of this system in *any other manner* than by the *unanimous consent* and agreement of all the states.

By our original Articles of Confederation, any alterations proposed are, in the first place, to be approved by Congress. Accordingly, as the resolutions were originally adopted by the Convention, and as they were reported by the committee of detail, it was proposed that this system should be laid before Congress, *for their approbation*. But, sir, the warm advocates of this system, fearing it would not meet with the approbation of Congress, and determined, even though Congress and the respective state legislatures should disapprove the same, to force it upon them, if possible, through the intervention of the people at large, moved to strike out the words “for their approbation,” and succeeded in their motion; to which, it being directly in violation of the mode prescribed by the Articles of Confederation for the alteration of our federal government, a part of the Convention, and myself in the number, thought it a duty to give a decided negative.

Agreeably to the Articles of Confederation, entered into in the *most solemn manner*, and for the *observance* of which the states pledged themselves to each other, and called upon the *Supreme Being* as a witness and



avenger between them, no alterations are to be made in those Articles, unless, after they are approved by Congress, they are agreed to, and ratified, by the legislature of every state; but by the resolve of the Convention, this Constitution is not to be ratified by the legislature of the respective states, but is to be submitted to conventions chosen by the people, and, if ratified by them, is to be binding.

This resolve was opposed, among others, by the delegation of Maryland. Your delegates were of opinion that, as the form of government proposed was, if adopted, most essentially to alter the *Constitution of this state*, and as our Constitution had pointed out a mode by which, and by which only, alterations were to be made therein, a convention of the people could not be called to agree to and ratify the said form of government without a *direct violation* of our Constitution, which it is the duty of every individual in this state to protect and support. In this opinion all your delegates who were attending were unanimous. I, sir, opposed it also upon a more extensive ground, as being directly contrary to the mode of altering our federal government, *established* in our original compact; and as such, being a *direct violation* of the mutual faith plighted by the states to each other, I gave it my negative.

I was of opinion that the states, considered as states, in their political capacity, are the members of a federal government—that the states in their political capacity, or as sovereignties, are entitled, and *only entitled*, originally to agree upon the form of, and submit themselves to, a federal government, and afterwards, by mutual consent, to dissolve or alter it—that every thing which relates to the formation, the dissolution, or the alteration, of a federal government over states equally free, sovereign, and independent, is the peculiar province of the states in their *sovereign* or *political* capacity, in the same manner as what relates to forming alliances or treaties of peace, amity, or commerce; and that the people at large, in their individual capacity, have no more right to interfere in the one case than in the other—that according to these principles we originally acted in forming our Confederation. It was the states as states, by their representatives in Congress, that formed the Articles of Confederation; it was the states as states, by their legislatures, who ratified those Articles; and it was there established and provided that the states as states (that is, by their legislatures) should agree to any alterations that should hereafter be proposed in the federal government, before they should be binding; and any alterations agreed to in any other manner cannot release the states from the obligation they are under to each other by virtue of the original Articles of Confederation. The people of the different states never made any objection to the manner in which the Articles of Confederation were formed or ratified, or to the mode by which alterations were to be made in that government: with the rights of their respective states they wished not to interfere. Nor do I believe the people, in their individual capacity, would ever have expected or desired to have been appealed to on the present occasion, in violation of the rights of their respective states, if the favorers of the proposed Constitution, imagining they had a better chance of forcing it to be adopted by a hasty appeal to the people at large, (who could not be so good judges of the dangerous consequence,) had not insisted upon this mode. Nor do these positions in the least interfere with the principle, that all power originates from the people; because, when once the people have *exercised their power* in establishing and forming themselves into a *state government* it never devolves back to them; nor have they a right to



resume or again to exercise that power, until such events take place as will amount to a dissolution of their state government. And it is an established principle, that a dissolution or alteration of a federal government doth not dissolve the state governments which compose it. It was also my opinion that, upon principles of sound policy, the agreement or disagreement to the proposed system ought to have been by the state legislatures; in which case, let the event have been what it would, there would have been but little prospect of the public peace being disturbed thereby; whereas the attempt to force down this system, although Congress and the respective state legislatures should disapprove, by appealing to the people, and to procure its establishment in a manner totally unconstitutional, has a tendency to set the state governments and their subjects at variance with each other, to lessen the obligations of government, to *weaken the bands of society*, to introduce *anarchy* and *confusion*, and to light the torch of discord and civil war throughout this continent. All these considerations weighed with me most forcibly against giving my assent to the mode by which it is resolved that this system is to be ratified, and were urged by me in opposition to the measure.

I have now, sir, in discharge of the duty I owe to this house, given such information as hath occurred to me, which I consider most material for them to know; and you will easily perceive, from this detail, that a great portion of that time, which ought to have been devoted calmly and impartially to consider what alterations in our federal government would be most likely to procure and preserve the happiness of the Union, was employed in a *violent struggle* on the one side to obtain all power and dominion in their own hands, and on the other to prevent it; and that the *aggrandizement* of particular states, and particular individuals, appears to have been much more the subject sought after than the welfare of our country.

The interest of this state, not confined merely to itself, abstracted from all others, but considered relatively, as far as was consistent with the common interest of the other states, I thought it my duty to pursue, according to the best opinion I could form of it.

When I took my seat in the Convention, I found them attempting to bring forward a system which, I was sure, never had entered into the contemplation of those I had the honor to represent, and which, upon the fullest consideration, I considered not only injurious to the interest and rights of this state, but also incompatible with the political happiness and freedom of the states in general. From that time until my business compelled me to leave the Convention, I gave it every possible opposition, in every stage of its progression. I opposed the system there with the same explicit frankness with which I have here given you a history of our proceedings, an account of my own conduct, which in a particular manner I consider you as having a right to know. While there, I endeavored to act as became a freeman, and the delegate of a free state. Should my conduct obtain the approbation of those who appointed me, I will not deny it would afford me satisfaction; but to me that approbation was at most no more than a secondary consideration: my first was, to deserve it. Left to myself to act according to the best of my discretion, my conduct should have been the same, had I been even sure your censure would have been my only reward, since I hold it sacredly my duty to dash the cup of poison, if possible, from the hand of a state, or an individual, however anxious the one or the other might be to swallow it.

Indulge me, sir, in a single observation further: There are persons who



Virginia, . . . . . Geo. Washington,  
Edm. Randolph,  
Geo. Wythe,  
Geo. Mason,  
James Madison,  
John Blair,  
James M'Clurg.  
North Carolina, .. Alexander Martin,

Wm. R. Davie,  
Richard D. Spaight,  
H. Williamson.  
South Carolina, . . . John Rutledge,  
C. C. Pinckney,  
Chas. Pinckney,  
Pierce Butler.

A motion by R. Morris, and seconded, that General Washington take the chair. Unanimously agreed to.

When seated, he (General Washington) declared, that, as he never had been in such a situation, he felt himself embarrassed; that he hoped his errors, as they would be unintentional, would be excused. Mr. Hamilton, in behalf of the state of New York, moved that Major Jackson be appointed secretary. The delegates for Pennsylvania moved for Temple Franklin. By a majority Mr. Jackson carried it — called in and took his seat.

After which, the respective credentials of the seven states were read.

N. B. That of Delaware restrained its delegates from assenting to an abolition of the 5th article of the Confederation, by which it is declared that each state shall have one vote.

Door-keeper and messengers being appointed, the house adjourned to Monday, the 28th day of May, at 10 o'clock.

MONDAY, *May 28, 1787*

Met pursuant to adjournment. A committee of three members (whose appointment I omitted in the entry of the proceedings of Friday last) reported a set of rules for the order of the Convention; which, being considered by articles, were agreed to, and additional ones proposed and referred to the same committee. The representation was this day increased to nine states — Massachusetts and Connecticut becoming represented. Adjourned to next day.

TUESDAY, *May 29, 1787.*

The additional rules agreed to. His excellency, Gov. RANDOLPH, a member from Virginia, got up, and, in a long and elaborate speech, showed the defects in the system of the present federal government, as totally inadequate to the peace, safety, and security of the Confederation, and the absolute necessity of a more energetic government.

He closed these remarks with a set of resolutions, fifteen

in number, which he proposed to the Convention for their adoption, and as leading principles whereon to form a new government. He candidly confessed that they were not intended for a federal government — he meant a strong, *consolidated* union, in which the idea of states should be nearly annihilated. [See page 143 in this volume, where they are printed at large.]

He then moved that they should be taken up in committee of the whole house.

Mr. C. PINCKNEY, a member from South Carolina, then added, that he had reduced his ideas of a new government to a system, which he read, and confessed that it was grounded on the same principles as the above resolutions. [See page 145 of this volume.]

The house then resolved that they would, the next day, form themselves into a committee of the whole, to take into consideration *the state of the Union*. Adjourned to next day.

WEDNESDAY, *May 30*, 1787.

Convention met pursuant to adjournment. The Convention, pursuant to order, resolved itself into a committee of the whole. Mr. Gorham (a member from Massachusetts) appointed chairman.

Mr. RANDOLPH then moved his 1st resolve, to wit: —

“*Resolved*, That the Articles of Confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution, namely, common defence, security of liberty, and general welfare.”

Mr. G. MORRIS observed, that it was an unnecessary resolution, as the subsequent resolutions would not agree with it. It was then withdrawn by the proposer, and, in lieu thereof, the following were proposed, to wit: —

“1. *Resolved*, That a union of the states, merely federal, will not accomplish the objects proposed by the Articles of Confederation, namely, common defence, security of liberty, and general welfare.

“2. *Resolved*, That no treaty or treaties among any of the states, as sovereign, will accomplish or secure their common defence, liberty, or welfare.

“3. *Resolved*, That a national government ought to be established, consisting of a supreme judicial, legislative, and executive.”

In considering the question on the 1st resolve, various modifications were proposed, when Mr. Pinckney observed, at last, that, if the Convention agreed to it, it appeared to



him that their business was at an end; for, as the powers of the house in general were to revise the present Confederation, and to alter or amend it, as the case might require, to determine its insufficiency, or incapability of amendment or improvement, must end in the dissolution of the powers.

This remark had its weight; and, in consequence of it, the 1st and 2d resolves were dropped, and the question agitated on the 3d.

This last resolve had also its difficulties: the term *supreme* required explanation. It was asked whether it was intended to annihilate state governments. It was answered, only so far as the powers intended to be granted to the new government should clash with the states, when the latter were to yield.

*For the resolution:* Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina.

*Against it:* Connecticut. New York *divided:* Jersey and other states unrepresented.

The next question was on the following resolve: In substance, that the mode of the present representation was unjust — the suffrage ought to be in proportion to number or property.

To this Delaware objected, in consequence of the restrictions in their credentials, and moved to have the consideration thereof postponed, to which the house agreed. Adjourned to to-morrow.

THURSDAY, *May 31, 1787.*

Met pursuant to adjournment. This day the state of Jersey was represented, so that there were now ten states in Convention.

The house went again into committee of the whole, Mr. Gorham in the chair.

The 3d resolve, to wit, "That the national legislature ought to consist of two branches," was taken into consideration, and without any debate agreed to.

[N. B. As a previous resolution had already been agreed to, to have a supreme legislature, I could not see any objection to its being in two branches.]

The 4th resolve, "That the members of the first branch of the national legislature ought to be elected by the people of the several states," was opposed; and, strange to tell, by Massachusetts and Connecticut, who supposed they ought

to be chosen by the legislatures; and Virginia supported the resolve, alleging that this ought to be the democratic branch of government, and, as such, immediately vested in the people.

This question was carried; but the remaining part of the resolve, detailing the powers, was postponed.

The 5th resolve, "That the members of the second branch of the national legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual legislatures," and the detail of the mode of election and duration of office, was postponed.

The 6th resolve is taken in detail: "That each branch ought to possess the right of originating acts." Agreed to.

"That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation." Agreed to.

"And, moreover, to legislate in all cases to which the separate states are incompetent." Agreed to.

FRIDAY, *June 1, 1787.*

Met pursuant to adjournment. The 7th resolve, "That a national executive be instituted." Agreed to.

"To continue in office for seven years." Agreed to.

"A general authority to execute the laws." Agreed to.

"To appoint all officers not otherwise provided for." Agreed to.

Adjourned to the next day.

SATURDAY, *June 2, 1787.*

Met pursuant to adjournment. Present, eleven states.

Mr. PINCKNEY called for the order of the day.

The Convention went into committee of the whole.

Mr. WILSON moved that the states should be divided into districts, consisting of one or more states, and each district to elect a number of senators to form the second branch of the national legislature—the senators be elected, and a certain proportion to be annually dismissed—avowedly on the plan of the New York Senate. Question put—rejected.

In the 7th resolve, the words "to be chosen by the national legislature" were agreed to.

Pres. FRANKLIN moved, that the consideration of that part of the 7th resolve, which had in object the making

provision for a compensation for the service of the executive, be postponed, for the purpose of considering a motion, "that the executive should receive no salary, stipend, or emolument, for the devotion of his time to the public services, but that his expenses should be paid." Postponed.

Mr. DICKINSON moved that, in the 7th resolution, the words, "and removable on impeachment and conviction for mal-conduct, or neglect, in the execution of his office," should be inserted after the words "ineligible a second time." Agreed to. The remainder postponed.

Mr. BUTLER moved to fill the number of which the executive should consist.

Mr. RANDOLPH. The sentiments of the people ought to be consulted. They will not hear of the semblance of monarchy. He preferred three divisions of the states, and an executive to be taken from each. If a single executive, those remote from him would be neglected; local views would be attributed to him, frequently well founded, often without reason. This would excite disaffection. He was therefore for an executive of three.

Mr. BUTLER. Delays, divisions, and dissensions, arise from an executive consisting of many. Instanced Holland's distracted state, occasioned by her many counsellors. Further consideration postponed.

Mr. C. PINCKNEY gave notice for the reconsideration of the mode of election of the first branch.

Adjourned till Monday next.

MONDAY, June 4, 1787.

Met pursuant to adjournment. Mr. PINCKNEY moved, that the blank in the 7th resolve, "consisting of                   " be filled up with "an individual."

Mr. WILSON, in support of the motion, asserted, that it would not be obnoxious to the minds of the people, as they, in their state governments, were accustomed and reconciled to a single executive. Three executives might divide, so that two could not agree in one proposition. The consequence would be anarchy and confusion.

Mr. SHERMAN thought there ought to be one executive, but that he ought to have a council. Even the king of Great Britain has his privy council.

Mr. GERRY was for one executive. If otherwise, it

would be absurd to have it consist of three. Numbers equal in rank would oddly apply to a general or admiral.

Question put — 7 states for, and 3 against. New York against it.

The 8th resolve, "That the executive and a number of the judicial officers ought to compose a council of revision."

Mr. GERRY objects to the clause — moves a postponement in order to let in a motion, "that the right of revision should be in the executive only."

Mr. WILSON contends that the executive and judicial ought to have a joint and full negative — they cannot otherwise preserve their importance against the legislature.

Mr. KING was against the interference of the judicial. They may be biased in the interpretation. He is therefore to give the executive a complete *negative*.

Carried to be postponed — 6 states against 4. New York for it.

The next question, that the executive have a complete negative; and it was therefore moved to expunge the remaining part of the clause.

Dr. FRANKLIN against the motion. The power dangerous, and would be abused, so as to get money for passing bills.

Mr. MADISON against it, because of the difficulty of an executive venturing on the exercise of this negative, and is therefore of opinion that the revisional authority is better.

Mr. BEDFORD is against the whole, either negative or revisional. The two branches are sufficient checks on each other; no danger of subverting the executive, because his powers may by the Convention be so well defined, that the legislature cannot overleap the bounds.

Mr. MASON against the negative power in the executive, because it will not accord with the genius of the people.

On this question was put and carried, *nem. con.*, against expunging part of the clause, so as to establish a complete negative.

Mr. BUTLER then moved that all acts passed by the legislature be suspended for the space of        days by the executive. Unanimously in the negative.

It was resolved and agreed, that the blank be filled up with the words "two thirds of the legislature." Agreed to.



The question was then put on the whole of the resolve as amended and filled up. Carried — 8 states for, 2 against. New York for it.

Mr. WILSON then moved for the addition of a *convenient number of the national judicial* to the executive as a council of revision. Ordered to be taken into consideration to-morrow. Adjourned until to-morrow.

TUESDAY, June 5, 1787.

Met pursuant to adjournment. The 9th resolve, "That a national judicial be established, to consist of one supreme tribunal, and of inferior tribunals, to hold their offices during good behavior; and no augmentation or diminution in their stipends during the time of holding their offices." Agreed to.

Mr. WILSON moved that the *judicial be appointed by the executive*, instead of the *national legislature*.

Mr. MADISON opposed the motion, and inclined to think that the executive ought by no means to make the appointments, but rather that branch of the legislature called the senatorial; and moves that the words "of the appointment of the legislature" be expunged.

Carried by 8 states; against it, 2. The remaining part of the resolve postponed. The 10th resolve read and agreed to. The 11th resolve agreed to be postponed. The 12th resolve agreed to without debate. The 13th and 14th resolves postponed.

The 15th, or last resolve, "That the amendment which shall be offered to the Confederation ought, at a proper time or times after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several legislatures, to be expressly chosen by the people, to consider and decide thereon," was taken into consideration.

Mr. MADISON endeavored to enforce the necessity of this resolve, because the new national Constitution ought to have the highest source of authority, at least paramount to the powers of the respective constitutions of the states; points out the mischiefs that have arisen in the old Confederation, which depends upon no higher authority than the confirmation of an ordinary act of a legislature; instances the law operation of treaties, when contravened by any antecedent acts of a particular state.

Mr. KING supposes, that, as the people have tacitly agreed to a federal government, therefore the legislature, in every state, have a right to confirm any alterations or amendments in it: a convénion in each state to approve of a new government, he supposes, however, the most eligible.

Mr. WILSON is of opinion that the people, by a convention, are the only power that can ratify the proposed system of the new government.

It is possible that not all the states, nay, that not even a majority, will immediately come into the measure; but such as do ratify it will be immediately bound by it, and others as they may from time to time accede to it.

Question put for postponement of this resolve — 7 states for postponement, 3 against it.

Question on the 9th resolve, to strike out the words “and of inferior tribunals.”

Carried by 5 states against 4; 2 states divided, of which last number New York was one.

Mr. WILSON then moved, “That the national legislature shall have the power to appoint inferior tribunals,” be added to the resolve.

Carried by 7 states against 3. New York divided. [N. B. Mr. Lansing, from New York, was prevented by sickness from attending to-day.] Adjourned to to-morrow morning.

WEDNESDAY, *June 6, 1787.*

Met pursuant to adjournment. Mr. PINCKNEY moved, (pursuant to a standing order for reconsideration,) that, in the 4th resolve, the words “by the people” be expunged, and the words “by the legislatures” be inserted.

Mr. GERRY. If the national legislature are appointed by the state legislatures, demagogues and corrupt members will creep in.

Mr. WILSON is of opinion that the national legislative powers ought to flow immediately from the people, so as to contain all their understanding, and to be an exact transcript of their minds. He observed, that the people had already parted with as much of their power as was necessary to form on its basis a perfect government; and the particular states must part with such a portion of it as to make the present national government adequate to their peace, and the security of their liberties. He admitted that the state govern-

ments would probably be rivals and opposers of the national government.

Mr. MASON observed, that the national legislature, as to one branch, ought to be elected by the people; because the objects of their legislation will not be on states, but on individual persons.

Mr. DICKINSON is for combining the state and national legislatures in the same views and measures; and that this object can only be effected by the national legislature flowing from the state legislatures.

Mr. READ is of opinion that the state governments must, sooner or later, be at an end, and that therefore we must make the present national government as perfect as possible.

Mr. MADISON is of opinion that, when we agreed to the 1st resolve, of having a national government, consisting of a supreme executive, judicial, and legislative power, it was then intended to operate to the exclusion of a federal government; and the more extensive we made the basis, the greater probability of duration, happiness, and good order.

The question for the amendment was negatived by 8 states against 3. New York in the majority.

On the 8th resolve, Mr. WILSON moved, (in consequence of a vote to reconsider the question on the revisional powers vested in the executive,) that there be added these words: "with a convenient number of the national judicial."

Upon debate, carried in the negative — 3 states for, and 8 against. New York for the addition. Adjourned to tomorrow morning.

THURSDAY, *June 7, 1787.*

Met pursuant to adjournment. Mr. RUTLEDGE moved to take into consideration the mode of electing the second branch of the national legislature.

Mr. DICKINSON thereupon moved, "That the second branch of the national legislature be chosen by the legislatures of the individual states." He observed, that this mode will more intimately connect the state governments with the national legislature — it will also draw forth the first characters either as to family or talent, and that it ought to consist of a considerable number.

Mr. WILSON against the motion, because the two

branches, thus constituted, cannot agree, they having different views and different sentiments.

Mr. DICKINSON is of opinion that the mode by him proposed, like the British Houses of Lords and Commons, whose powers flow from different sources, are mutual checks on each other, and will thus promote the real happiness and security of the country. A government thus established would harmonize the whole, and, like the planetary system, the national council, like the sun, would illuminate the whole; the planets revolving round it in perfect order; or, like the union of several small streams, would at last form a respectable river, gently flowing to the sea.

Mr. WILSON. The state governments ought to be preserved. The freedom of the people, and their internal good police, depend on their existence in full vigor: but such a government can only answer local purposes — that it is not possible a general government, as despotic as even that of Roman emperors, could be adequate to the government of the whole without this distinction. He hoped that the national government would be independent of state governments, in order to make it vigorous, and therefore moved that the resolution might be postponed, and that the Convention, in its room, adopt the following resolve: “That the second branch of the national legislature be chosen by districts, to be formed for that purpose.”

Mr. SHERMAN supposes the election of the national legislature will be better vested in the state legislatures than in the people; for, by pursuing different objects, persons may be returned who have not one tenth of the votes.

Mr. GERRY observed, that the great mercantile interest, and of stockholders, is not provided for in any mode of election — they will, however, be better represented if the state legislatures choose the second branch.

Question carried against the postponement — 10 states against 1.

Mr. MASON then spoke to the general question — observing on the propriety, that the second branch of the national legislature should flow from the legislature of each state, to prevent the encroachments on each other, and to harmonize the whole.

The question put on the first motion, and carried unanimously. Adjourned to to-morrow morning.



FRIDAY, June 8, 1787.

Met pursuant to adjournment — 11 states. Mr. PINCKNEY moved, “that the national legislature shall have the power of negating all laws to be passed by the state legislatures which they may judge improper,” in the room of the clause as it stood reported.

He grounds his motion on the necessity of one supreme controlling power, and he considers this as the *corner-stone* of the present system; and hence the necessity of retrenching the state authorities, in order to preserve the good government of the national council.

Mr. WILLIAMSON against the motion. The national legislature ought to possess the power of negating such laws only as will encroach on the national government.

Mr. MADISON wished that the line of jurisprudence could be drawn — he would be for it — but, upon reflection, he finds it impossible, and therefore he is for the amendment. If the clause remains without the amendment, it is inefficient. The judges of the state must give the state laws their operation, although the law abridges the rights of the national government. How is it to be repealed? By the power who made it. How shall you compel them? By force! To prevent this disagreeable expedient, the power of negating is absolutely necessary. This is the only attractive principle which will retain its centrifugal force, and without this the planets will fly from their orbits.

Mr. GERRY supposes that this power ought to extend to all laws already made; but the preferable mode would be to designate the powers of the national legislature, to which the negative ought to apply. He has no objection to restrain the laws which may be made for issuing paper money. Upon the whole, he does not choose, on this important trust, *to take a leap in the dark.*

Mr. PINCKNEY supposes that the proposed amendment had no retrospect to the state laws already made. The adoption of the new government must operate as a complete repeal of all the constitutions and state laws, as far as they are inconsistent with the new government.

Mr. WILSON supposes the surrender of the rights of a federal government to be a surrender of sovereignty. True, we may define some of the rights, but when we come near the line, it cannot be found. One general excepting clause must therefore apply to the whole. In the beginning of our

troubles, Congress themselves were as one state. Dissensions or state interests were not known. They gradually crept in after the formation of the Constitution, and each took to himself a slice. The original draft of Confederation was drawn on the first ideas; and the draft concluded on. how different!

Mr. BEDFORD was against the motion, and states the proportion of the intended representation of the number 90: Delaware 1—Pennsylvania and Virginia one third. On this computation, where is the weight of the small states, when the interest of the one is in competition with the other on trade, manufactures, and agriculture? When he sees this mode of government so strongly advocated by the members of the great states, he must suppose it a question of *interest*.

Mr. MADISON confesses it is not without its difficulties on many accounts; some may be removed, others modified, and some are unavoidable. May not this power be vested in the senatorial branch? They will probably be always sitting. Take the question on the other ground—who is to determine the line when drawn in doubtful cases? The state legislatures cannot, for they will be partial in support of their own powers; no tribunal can be found. It is impossible that the Articles of Confederation can be amended. They are too tottering to be invigorated. Nothing but the present system, or something like it, can restore the peace and harmony of the country.

The question put on Mr. Pinckney's motion—7 states against it; Delaware divided; Virginia, Pennsylvania, and Massachusetts, for it. Adjourned to to-morrow morning.

SATURDAY, June 9, 1787.

Met pursuant to adjournment. Motion by Mr. GERRY to reconsider the appointment of the national executive: "that the national executive be appointed by the state executives."

He supposed that in the national legislature there will be a great number of bad men of various descriptions. These will make a wrong appointment; besides, an executive thus appointed will have his partiality in favor of those who appointed him—that this will not be the case by the effect of his motion, and the executive will by this means be independent of the national legislature; but the appointment by

the state executives ought to be made by votes, in proportion to their weight in the scale of representation.

Mr. RANDOLPH opposes the motion. The power vested by it is dangerous; confidence will be wanting; the largest states will be masters of the election. An executive ought to have great experience, integrity, and activity. The executives of the states cannot know the persons properly qualified as possessing these. An executive thus appointed will court the officers of his appointment, and will relax him in the duties of commander of the militia. Your single executive is already invested with negating laws of the state. Will he duly exercise the power? Is there no danger in the combinations of states to appoint such an executive as may be too favorable to local state governments? Add to this the expense and difficulty of bringing the executives to one place, to exercise their powers. Can you suppose they will ever cordially raise the great oak, when they must sit as shrubs under its shade?

Carried against the motion: 10 noes, and Delaware divided.

On motion of Mr. Patterson, the consideration of the 2d resolve was taken up, which is as follows: —

“*Resolved*, therefore, that the rights of suffrage in the national legislature ought to be apportioned to the quotas of contribution, or to the number of inhabitants, as the one or other rule may seem best in different cases”

Judge BREARLY. The present question is an important one. On the principle that each state in the Union was sovereign, Congress, in the Articles of Confederation, determined that each state in the public councils had *one* vote. If the states still remain sovereign, the form of the present resolve is founded on principles of injustice. He then stated the comparative weight of each state — the number of votes 90. Georgia would be 1, Virginia 16, and so of the rest. This vote must defeat itself, or end in despotism. If we must have a national government, what is the remedy? Lay the map of the Confederation on the table, and extinguish the present boundary lines of the respective state jurisdictions, and make a new division, so that each state is equal; then a government on the present system will be just.

Mr. PATTERSON opposed the resolve. Let us consider with what powers we are sent here; (moved to have the credentials of Massachusetts read, which was done.)

By this and the other credentials, we see that the basis of our present authority is founded on a revision of the Articles of the present Confederation, and to alter or amend them in such parts where they may appear defective. Can we on this ground form a national government? I fancy not. Our commissions give a complexion to the business; and can we suppose that, when we exceed the bounds of our duty, the people will approve our proceedings?

We are met here, as the deputies of thirteen independent sovereign states, for federal purposes. Can we consolidate their sovereignty, and form one nation, and annihilate the sovereignties of our states, who have sent us here for other purposes?

What, pray, is intended by a proportional representation? Is property to be considered as part of it? Is a man, for example, possessing a property of £4000 to have 40 votes to one possessing only £100? This has been asserted on a former occasion. If state distinctions are still to be held up, shall I submit the welfare of the state of New Jersey, with 5 votes in the national council, opposed to Virginia, who has 16 votes? Suppose, as it was in agitation before the war, that America had been represented in the British Parliament; had sent 200 members; what would this number avail against 600? We would have been as much enslaved in that case as when unrepresented; and what is worse, without the prospect of redress. But it is said that this national government is to act on individuals, and not on states; and cannot a federal government be so framed as to operate in the same way? It surely may. I therefore declare that I will never consent to the present system, and I shall make all the interest against it in the state which I represent that I can. Myself or my state will never submit to tyranny or despotism.

Upon the whole, every sovereign state, according to a confederation, must have an equal vote, or there is an end to liberty. As long, therefore, as state distinctions are held up, this rule must invariably apply; and if a consolidated national government must take place, then state distinctions must cease, or the states must be equalized.

Mr. WILSON was in favor of the resolve. He observed that a majority, nay, even a minority, of the states have a right to confederate with each other, and the rest may do



as they please. He considered numbers as the best criterion to determine representation. Every citizen of one state possesses the same rights with the citizen of another. Let us see how this rule will apply to the present question. Pennsylvania, from its numbers, has a right to twelve votes, when, on the same principle, New Jersey is entitled to five votes. Shall New Jersey have the same right or influence, in the councils of the nation, with Pennsylvania? I say, no. It is unjust. I never will confederate on this plan. The gentleman from New Jersey is candid in declaring his opinion. I commend him for it. I am equally so. I say again, I never will confederate on his principles. If no state will part with any of its sovereignty, it is vain to talk of a national government. The state who has five times the number of inhabitants ought, nay, must, have the same proportion of weight in the representation. If there was a probability of equalizing the states, I would be for it. But we have no such power. If, however, we depart from the principle of representation in proportion to numbers, we will lose the object of our meeting.

The question postponed for further consideration.

Adjourned to to-morrow morning.

MONDAY, *June 11, 1787.*

Met pursuant to adjournment. Present, eleven states.

Mr. SHERMAN moved, "that the first branch of the national legislature be chosen in proportion to the whole number of inhabitants in each state." He observed that, as the people ought to have the election of one of the branches of the legislature, the legislature of each state ought to have the election of the second branch, in order to preserve the state sovereignty; and that each state ought, in this branch, to have one vote.

Gov. RUTLEDGE moved, as an amendment of the first proposition, "that the proportion of representation ought to be according to, and in proportion to, the contribution of each state."

Mr. BUTLER supported the motion, by observing that money is strength; and every state ought to have its weight in the national council in proportion to the quantity it possesses. He further observed that, when a boy, he read this as one of the remarks of Julius Cæsar, who declared, if he

had but money, he would find soldiers, and every thing necessary to carry on the war.

Mr. KING observed that it would be better first to establish a principle, (that is to say,) whether we will depart from federal grounds in forming a national government; and therefore, to bring this point to view, he moved, as a previous question, that the sense of the committee be taken on the following question: —

“That the right of suffrage in the first branch of the national legislature ought not to be according to the rule in the Articles of Confederation, but according to some equitable ratio of representation.”

Gov. FRANKLIN's written remarks on this point were read by Mr. Wilson. In these Gov. Franklin observes, that representation ought to be in proportion to the importance of numbers and wealth in each state; that there can be no danger of undue influence of the greater against the lesser states. This was the apprehension of Scotland when the union with England was proposed, when, in Parliament, they were allowed only sixteen peers and forty-five commons; yet experience has proved that their liberties and influence were in no danger.

The question on Mr. King's motion was carried in the affirmative — 7 ayes, 3 noes, and Maryland divided. New York, New Jersey, and Delaware, in the negative.

Mr. DICKINSON moved, as an amendment, to add the words, “according to the taxes and contributions of each state, actually collected and paid into the national treasury.”

Mr. BUTLER was of opinion that the national government will only have the right of making and collecting the taxes, but that the states individually must lay their own taxes.

Mr. WILSON was of opinion, and therefore moved, “that the mode of representation of each of the states ought to be from the number of its free inhabitants, and of every other description three fifths to one free inhabitant.” He supposed that the impost will not be the only revenue. The post-office, he supposes, would be another substantial source of revenue. He observed, further, that this mode had already received the approbation of eleven states in their acquiescence to the quota made by Congress. He admitted that this resolve would require further restrictions, for where numbers determined the representation, a census at different periods, of five, seven, or ten years, ought to be taken

Mr. GERRY. The idea of property ought not to be the rule of representation. Blacks are property, and are used, to the southward, as horses and cattle to the northward; and why should their representation be increased to the southward, on account of the number of slaves, than horses or oxen to the north?

Mr. MADISON was of opinion, at present, to fix the standard of representation, and let the detail be the business of a sub-committee.

Mr. Rutledge's motion was postponed.

Mr. Wilson's motion was then put, and carried by 9 states against 2. New York in the majority.

Mr. WILSON then moved, as an amendment to Mr. Sherman's motion, "that the same proportion be observed in the election of the second branch as the first."

The question, however, was first put on Mr. Sherman's motion, and lost — 6 states against it, and 5 for it.

Then Mr. Wilson's motion was put and carried — 6 ayes, 5 noes.

The 11th resolve was then taken into consideration. Mr. MADISON moved to add, after the word "junctions," the words "or separation."

Mr. READ against the resolve *in toto*. We must put away state governments, and we will then remove all cause of jealousy. The guaranty will confirm the assumed rights of several states to lands which do belong to the Confederation.

Mr. MADISON moved an amendment, to add to or alter the resolution as follows: "The republican constitutions, and the existing laws of each state, to be guarantied by the United States."

Mr. RANDOLPH was for the present amendment, because a republican government must be the basis of our national Union; and no state in it ought to have it in their power to change its government into a monarchy. Agreed to.

13th resolve — the first part agreed to.

14th resolve taken into consideration.

Mr. WILLIAMSON. This will be unnecessary, as the Union will become the law of the land.

Gov. RANDOLPH. He supposes it to be absolutely necessary. Not a state government, but its officers, will in-

fringe on the rights of the national government. If the state judges are not sworn to the observance of the new government, will they not judicially determine in favor of their state laws? We are erecting a supreme national government; ought it not to be supported, and can we give it too many sinews?

Mr. GERRY rather supposes that the national legislators ought to be sworn to preserve the state constitutions, as they will run the greatest risk to be annihilated; and therefore moved it.

For Mr. Gerry's amendment, 7 ayes, 4 noes.

Main question then put on the clause or resolve — 6 ayes, 5 noes. New York in the negative. Adjourned to tomorrow morning.

TUESDAY, *June 12, 1787.*

Met pursuant to adjournment. Present, eleven states.

The 15th or last resolve was taken into consideration. No debate arose on it, and the question was put and carried — 5 states for it, 3 against, and 2 divided. New York in the negative.

Having thus gone through with the resolves, it was found necessary to take up such parts of the preceding resolves as had been postponed or not agreed to. The remaining part of the 4th resolve was taken into consideration.

Mr. SHERMAN moved that the blank of the duration of the first branch of the national legislature be filled with "one year," Mr. RUTLEDGE with "two years," and Mr. JENIFER with "three years."

Mr. MADISON was for the last amendment; observing that it will give it stability, and induce gentlemen of the first weight to engage in it.

Mr. GERRY is afraid the people will be alarmed, as savoring of despotism.

Mr. MADISON. The people's opinions cannot be known, as to the particular modifications which may be necessary in the new government. In general, they believe there is something wrong in the present system that requires amendment; and he could wish to make the republican system the basis of the change, because, if our amendments should fail of securing their happiness, they will despair it can be done in this way, and incline to monarchy.



Mr. GERRY could not be governed by the prejudices of the people. Their good sense will ever have its weight. Perhaps a limited monarchy would be the best government, if we could organize it by creating a house of peers; but that cannot be done.

The question was put on the three years' amendment, and carried — 7 ayes, 4 noes. New York in the affirmative.

On motion to expunge the clause of the qualification as to age, it was carried — 10 states against 1.

On the question for fixed stipends, without augmentation or diminution, to this branch of the legislature, it was moved that the words "to be paid by the national treasury" be added. Carried — 8 states for, 3 against. New York in the negative.

The question was then put on the clause as amended, and carried — 8 ayes, 3 noes. New York in the negative.

On the clause respecting the ineligibility to any other office, it was moved that the words "by any particular state," be expunged. 4 states for, 5 against, and 2 divided. New York in the affirmative.

The question was then put on the whole clause, and carried — 10 ayes, 1 no.

The last blank was filled up with one year, and carried — 8 ayes, 2 noes, 1 divided.

Mr. PINCKNEY moved to expunge the clause. Agreed to, *nem. con.*

The question to fill up the blank with three years, agreed to — 7 states for, 4 against.

It was moved to fill the blank, as to the duration, with *seven years.*

Mr. PIERCE moved to have it for three years — instanced the danger of too long a continuance, from the evils arising in the British Parliaments from their septennial duration, and the clamors against it in that country by its real friends.

Mr. SHERMAN was against the seven years, because, if they are bad men, it is too long, and if good, they may be again elected.

Mr. MADISON was for seven years — considers this branch as a check on the democracy. It cannot therefore be made too strong.

For the motion, 8 ayes 1 no, 2 states divided. New York one of the last.

Mr. BUTLER moved to expunge the clause of the stipends. Lost — 7 against, 3 for, 1 divided.

Agreed that the second branch of the national legislature be paid in the same way as the first branch.

Upon the subject of ineligibility, it was agreed that the same rule should apply as to the first branch.

6th resolve agreed to be postponed *sine die*.

9th resolve taken into consideration, but postponed to to-morrow. Then adjourned to to-morrow morning.

WEDNESDAY, June 13, 1787.

Met pursuant to adjournment. Present, eleven states.

Gov. RANDOLPH observed the difficulty in establishing the powers of the judiciary. The object, however, at present, is to establish this principle, to wit, the security of foreigners where treaties are in their favor, and to preserve the harmony of states and that of the citizens thereof. This being once established, it will be the business of a sub-committee to detail it; and therefore moved to obliterate such parts of the resolve, so as only to establish the principle, to wit: "That the jurisdiction of the national judiciary shall extend to all cases of national revenue, impeachment of national officers, and questions which involve the national peace or harmony." Agreed to unanimously.

It was further agreed that the judiciary be paid out of the national treasury.

Mr. PINCKNEY moved that the judiciary be appointed by the national legislature.

Mr. MADISON is of opinion that the second branch of the legislature ought to appoint the judiciary; which the Convention agreed to.

Mr. GERRY moved that the first branch shall have the only right of originating bills to supply the treasury.

Mr. BUTLER against the motion. We are constantly running away with the idea of the excellence of the British Parliament, and, with or without reason, copying from them; when, in fact, there is no similitude in our situations. With us, both houses are appointed by the people, and both ought to be equally trusted.

Mr. GERRY. If we dislike the British government for the oppressive measures by them carried on against us, yet

he hoped we would not be so far prejudiced as to make ours in every thing opposite to theirs.

Mr. Madison's question was carried.

The committee having now gone through the whole of the propositions from Virginia — "*Resolved*, That the committee do report to the Convention their proceedings." This was accordingly done. [See page 175 of this volume.]

The house resolved, on the report being read, that the consideration thereof be postponed to to-morrow, and that members have leave to take copies thereof.

Adjourned to to-morrow morning.

THURSDAY, *June 14, 1787.*

Met pursuant to adjournment. Present, eleven states.

Mr. PATTERSON moved that the further consideration of the report be postponed until to-morrow, as he intended to give in principles to form a federal system of government materially different from the system now under consideration. Postponement agreed to.

Adjourned until to-morrow morning.

FRIDAY, *June 15, 1787.*

Met pursuant to adjournment. Present, eleven states.

Mr. PATTERSON, pursuant to his intentions, as mentioned yesterday, read a set of resolves as the basis of amendment to the Confederation. [See page 175 of this volume.]

He observed, that no government could be energetic on paper only, which was no more than straw — that the remark applied to the one as well as to the other system; and is therefore of opinion that there must be a small standing force to give every government weight.

Mr. MADISON moved for the report of the committee, and the question may then come on whether the Convention will postpone it in order to take into consideration the system now offered.

Mr. LANSING is of opinion that the two systems are fairly contrasted. The one now offered is on the basis of amending the federal government, and the other to be reported as a national government. Considering, therefore, its importance, and that justice may be done to its weighty consideration, he is for postponing it a day.

Col. HAMILTON cannot say he is in sentiment with either plan — supposes both might be again considered as federal plans, and by this means they will be fairly in committee, and be contrasted so as to make a comparative estimate of the two.

Thereupon it was agreed that the report be postponed, and that the house will resolve itself into a committee of the whole, to take into consideration both propositions to-morrow. Then the Convention adjourned to to-morrow morning.

SATURDAY, *June 16, 1787.*

Met pursuant to adjournment. Present, eleven states.

Mr. LANSING moved to have the first article of the last plan of government read; which being done, he observed that this system is fairly contrasted with the one ready to be reported — the one federal and the other national. In the first, the powers are exercised as flowing from the respective state governments, the second deriving its authority from the people of the respective states; which latter must ultimately destroy or annihilate the state governments. To determine the powers on these grand objects with which we are invested, let us recur to the credentials of the respective states, and see what the views were of those who sent us. The language is there expressive — it is upon the revisor of the present Confederation — to alter and amend such parts as may appear defective, so as to give additional strength to the Union. And he would venture to assert that, had the legislature of the state of New York apprehended that their powers would have been construed to extend to the formation of a national government, to the extinguishment of their independency, no delegates would have here appeared on the part of that state. This sentiment must have had its weight on a former occasion, even in this house; for when the 2d resolution of Virginia declared, in substance, that a federal government could not be amended for the good of the whole, the remark of an honorable member of South Carolina, that, by determining this question in the affirmative, their deliberative powers were at an end, induced this house to waive the resolution.

It is in vain to adopt a mode of government which we have reason to believe the people gave us no power to recommend, as they will consider themselves, on this ground,



authorized to reject it. See the danger of exceeding your powers by the example which the requisition of Congress of 1783 afforded. They required an impost on all imported articles; to which, on federal grounds, they had no right unless voluntarily granted. What was the consequence? Some, who had least to give, granted it; and others, under various restrictions and modifications, so that it could not be systematized. If we form a government, let us do it on principles which are likely to meet the approbation of the states. Great changes can only be gradually introduced. The states will never sacrifice their essential rights to a national government. New plans, annihilating the rights of the states, (unless upon evident necessity,) can never be approved. I may venture to assert, that the prevalent opinion of America is, that granting additional powers to Congress would answer their views, and every power recommended for their approbation, exceeding this idea, will be fruitless.

Mr. PATTERSON. As I had the honor of proposing a new system of government for the Union, it will be expected that I should explain its principles.

1st. The plan accords with our own powers.

2d. It accords with the sentiments of the people.

But if the subsisting Confederation is so radically defective as not to admit of amendment, let us say so, and report its insufficiency, and wait for enlarged powers. We must, in the present case, pursue our powers, if we expect the approbation of the people. I am not here to pursue my own sentiments of government, but of those who have sent me; and I believe that a little practical virtue is to be preferred to the finest theoretical principles which cannot be carried into effect. Can we, as representatives of independent states, annihilate the essential powers of independency? Are not the votes of this Convention taken, on every question, under the idea of independency? Let us turn to the 5th article of Confederation. In this it is mutually agreed that each state should have one vote; it is a fundamental principle, arising from confederated governments. The 13th article provides for amendments; but they must be agreed to by every state: the dissent of one renders every proposal null. The Confederation is in the nature of a compact; and can any state, unless by the consent of the whole, either in politics or law, withdraw their powers? Let it be said

by Pennsylvania, and the other large states, that they, for the sake of peace, assented to the Confederation; can she now resume her original right without the consent of the donee?

And although it is now asserted that the larger states reluctantly agreed to that part of the Confederation which secures an equal suffrage to each, yet let it be remembered that the smaller states were the last who approved the Confederation.

On this ground, representation must be drawn from the states, to maintain their independency, and not from the people composing those states.

The doctrine advanced, by a learned gentleman from Pennsylvania, that all power is derived from the people, and that in proportion to their numbers they ought to participate equally in the benefits and rights of government, is right in principle, but, unfortunately for him, wrong in the application to the question now in debate.

When independent societies confederate for mutual defence, they do so in their collective capacity; and then each state, for those purposes, must be considered as *one* of the contracting parties. Destroy this balance of equality, and you endanger the rights of the *lesser* societies by the danger of usurpation in the greater.

Let us test the government intended to be made by the Virginia plan on these principles. The representatives in the national legislature are to be in proportion to the number of inhabitants in each state. So far, it is right upon these principles of equality, when state distinctions are done away; but those to certain purposes still exist. Will the government of Pennsylvania admit a participation of their common stock of land to the citizens of New Jersey? I fancy not. It therefore follows, that a national government, upon the present plan, is unjust, and destructive of the common principles of reciprocity. Much has been said that this government is to operate on persons, not on states. This, upon examination, will be found equally fallacious; for the fact is, it will, in the quotas of revenue, be proportioned among the states, as states; and in this business Georgia will have one vote, and Virginia sixteen. The truth is, both plans may be considered to compel individuals to a compliance with their requisitions, although the requisition is made on the states.

Much has been said in commendation of two branches in a legislature, and of the advantages resulting from their being checks to each other. This may be true when applied to the state governments, but will not equally apply to a national legislature, whose legislative objects are few and simple.

Whatever may be said of Congress, or their conduct on particular occasions, the people in general are pleased with such a body, and in general wish an increase of their powers, for the good government of the Union. Let us now see the plan of the national government on the score of expence. The least the second branch of the legislature can consist of is 90 members; the first branch of at least 270. How are they to be paid, in our present impoverished situation? Let us, therefore, fairly try whether the Confederation cannot be mended; and if it can, we shall do our duty, and I believe the people will be satisfied.

Mr. WILSON first stated the difference between the two plans.

*Virginia* plan proposes two branches in the legislature.

*Jersey*, a single legislative body.

*Virginia*, the legislative powers derived from the people

*Jersey*, from the states.

*Virginia*, a single executive.

*Jersey*, more than one.

*Virginia*, a majority of the legislature can act.

*Jersey*, a small majority can control.

*Virginia*, the legislature can legislate on all national concerns.

*Jersey*, only on limited objects.

*Virginia*, legislature to negative all state laws.

*Jersey*, giving power to the executive to compel obedience by force.

*Virginia*, to remove the executive by impeachment.

*Jersey*, on application of a majority of the states.

*Virginia*, for the establishment of inferior judiciary tribunals.

*Jersey*, no provision.

It is said, and insisted on, that the Jersey plan accords with our powers. As for himself, he considers his powers to extend to every thing or nothing; and, therefore, that he has a right and is at liberty to agree to either plan or none. The people expect relief from their present embarrassed situation, and look up for it to this national Convention, and it follows that they expect a national government; and therefore the plan from Virginia has the preference to the other. I would (says he) with a reluctant hand add any powers to Congress, because they are not a body chosen by the people,

and consist only of one branch, and each state in it has one vote. Inequality in representation poisons every government.

The English courts are hitherto pure, just, and incorrupt, while their legislature are base and venal. The one arises from unjust representation, the other from their independency of the legislature.

Lord Chesterfield remarks, that one of the states of the United Netherlands withheld its assent to a proposition until a major of their state was provided for. He needed not have added (for the conclusion was self-evident) that it was one of the lesser states. I mean no reflection, but I leave it to gentlemen to consider whether this has not also been the case in Congress. The argument in favor of the Jersey plan goes too far, as it cannot be completed unless Rhode Island assents. A single legislature is very dangerous: despotism may present itself in various shapes. May there not be legislative despotism, if, in the exercise of their power, they are unchecked or unrestrained by another branch? On the contrary, an executive, to be restrained, must be an individual. The first triumvirate of Rome, combined, without law, was fatal to its liberties; and the second, by the usurpation of Augustus, ended in despotism. The two kings of Sparta, and the consuls of Rome, by sharing the executive, distracted their governments.

Mr. C. C. PINCKNEY supposes that, if New Jersey was indulged with one vote out of thirteen, she would have no objection to a national government. He supposes that the Convention have already determined, virtually, that the federal government cannot be made efficient. A national government being therefore the object, this plan must be pursued, as our business is not to conclude, but to recommend.

Judge ELLSWORTH is of opinion that the first question on the new plan will decide nothing materially on principle, and therefore moved the postponement thereof, in order to bring on the second.

Gov. RANDOLPH. The question now is, which of the two plans is to be preferred. If the vote on the first resolve will determine it, and it is so generally understood, he has no objection that it be put. The resolutions from Virginia must have been adopted on the supposition that a federal government was impracticable. And it is said that



power is wanting to institute such a government ; but when our all is at stake, I will consent to any mode that will preserve us. View our present deplorable situation. France, to whom we are indebted in every motive of gratitude and honor, is left unpaid the large sums she has supplied us with in the day of our necessity. Our officers and soldiers, who have successfully fought our battles, and the loaners of money to the public, look up to you for relief.

The bravery of our troops is degraded by the weakness of our government.

It has been contended that the 5th article of the Confederation cannot be repealed under the powers to new-modify the Confederation by the 13th article. This surely is false reasoning ; since the whole of the Confederation, upon revision, is subject to *amendment and alteration* ; besides, our business consists in recommending a system of government, not in making it. There are great reasons when persons with limited powers are justified in exceeding them, and a person would be contemptible not to risk it. Originally, our Confederation was founded on the weakness of each state to repel a foreign enemy ; and we have found that the powers granted to Congress are insufficient. The body of Congress is ineffectual to carry the great objects of safety and protection into execution. What would their powers be over the commander of the military, but for the virtue of the commander ? As the state assemblies are constantly encroaching on the powers of Congress, the Jersey plan would rather encourage such encroachment than be a check to it ; and, from the nature of the institution, Congress would ever be governed by cabal and intrigue. They are, besides, too numerous for an executive ; nor can any additional powers be sufficient to enable them to protect us against foreign invasion. Amongst other things, Congress was intended to be a body to preserve peace among the states ; and, in the rebellion of Massachusetts, it was found they were not authorized to use the troops of the Confederation to quell it. Every one is impressed with the idea of a general regulation of trade and commerce. Can Congress do this, when, from the nature of their institution, they are so subject to cabal and intrigue ? And would it not be dangerous to intrust such a body with the power, when they are dreaded on these grounds ? I am certain that a national

government must be established, and this is the only moment when it can be done; and let me conclude by observing, that the best exercise of power is to exert it for the public good.

Then adjourned to Monday morning.

MONDAY, June 18, 1787.

Met pursuant to adjournment. Present, eleven states.

Mr. HAMILTON. To deliver my sentiments on so important a subject, when the first characters of the Union have gone before me, inspires me with the greatest diffidence, especially when my own ideas are so materially dissimilar to the plans now before the committee. My situation is disagreeable; but it would be criminal not to come forward on a question of such magnitude. I have well considered the subject, and am convinced that no amendment of the Confederation can answer the purpose of a good government, so long as the state sovereignties do, in any shape, exist; and I have great doubts whether a national government on the Virginia plan can be made effectual. What is federal? An association of several independent states into one. How or in what manner this association is formed, is not so clearly distinguishable. We find the diet of Germany has, in some instances, the power of legislation on individuals. We find the United States of America have it in an extensive degree in the case of piracies.

Let us now review the powers with which we are invested. We are appointed for the sole and express purpose of revising the Confederation, and to alter or amend it, so as to render it effectual for the purposes of a good government. Those who suppose it to be federal, lay great stress on the terms *sole* and *express*, as if these words intended a confinement to a federal government; when the manifest import is no more than that the institution of a good government must be the *sole* and *express* object of your deliberations. Nor can we suppose an annihilation of our powers by forming a national government, as many of the states have made, in their constitutions, no provision for any alteration; and thus much I can say for the state I have the honor to represent, that, when our credentials were under consideration in the Senate, some members were for inserting a restriction in the powers,

to prevent an encroachment on the constitution: it was answered by others, and thereupon the resolve carried on the credentials, that it might abridge the constitutional powers of the state; and that possibly, in the formation of a new union, it would be found necessary. This appears reasonable, and therefore leaves us at liberty to form such a national government as we think best adapted for the good of the whole. I have therefore no difficulty as to the extent of our powers, nor do I feel myself restrained in the exercise of my judgment under them. We can only propose and recommend; — the power of ratifying or rejecting is still in the states. But on this great question I am still greatly embarrassed. I have before observed my apprehension of the inefficacy of either plan, and I have great doubts whether a more energetic government can pervade this wide and extensive country. I shall now show that both plans are materially defective.

1. A good government ought to be constant, and ought to contain an active principle. 2. Utility and necessity. 3. An habitual sense of obligation. 4. Force. 5. Influence.

I hold it that different societies have all different views and interests to pursue, and always prefer local to general concerns. For example: the New York legislature made an external compliance lately to a requisition of Congress; but do they not, at the same time, counteract their compliance by gratifying the local objects of the state, so as to defeat their concession? And this will ever be the case. Men always love power, and states will prefer their particular concerns to the general welfare; and as the states become large and important, will they not be less attentive to the general government? What, in process of time, will Virginia be? She contains now half a million of inhabitants: in twenty-five years she will double the number. Feeling her own weight and importance, must she not become indifferent to the concerns of the Union? And where, in such a situation, will be found national attachment to the general government?

By *force* I mean the *coercion* of law and the coercion of arms. Will this remark apply to the power intended to be vested in the government to be instituted by their plan? A delinquent must be compelled to obedience by force of arms. How is this to be done? If you are unsuccessful, a dissolution of your government must be the consequence; and in that case the individual legislatures will reassume their

powers; nay, will not the interests of the states be thrown into the state governments?

By *influence*, I mean the regular weight and support it will receive from those who find it their interest to support a government intended to preserve the peace and happiness of the community on the whole. The state governments, by either plan, will exert the means to counteract it. They have their state judges and militia all combined to support their state interests; and these will be influenced to oppose a national government. Either plan is therefore precarious. The national government cannot long exist when opposed by such a weighty rival. The experience of ancient and modern confederacies evinces this point, and throws considerable light on the subject. The Amphictyonic council of Greece had a right to require of its members troops, money, and the force of the country. Were they obeyed in the exercise of those powers? Could they preserve the peace of the greater states and republics? or where were they obeyed? History shows that their decrees were disregarded, and that the stronger states, regardless of their power, gave law to the lesser.

Let us examine the federal institution of Germany. It was instituted upon the laudable principle of securing the independency of the several states of which it was composed, and to protect them against foreign invasion. Has it answered these good intentions? Do we not see that their councils are weak and distracted, and that it cannot prevent the wars and confusions which the respective electors carry on against each other? The Swiss cantons, or the Helvetic union, are equally inefficient.

Such are the lessons which the experience of others affords us, and from whence results the evident conclusion that all federal governments are weak and distracted. To avoid the evils deducible from these observations, we must establish a general and national government, completely sovereign, and annihilate the state distinctions and state operations; and unless we do this, no good purpose can be answered. What does the Jersey plan propose? It surely has not this for its object. By this we grant the regulation of trade and a more effectual collection of the revenue, and some partial duties. These, at five or ten per cent., would only perhaps amount to a fund to discharge the debt of the corporation.



Let us take a review of the variety of important objects which must necessarily engage the attention of a national government. You have to protect your rights against Canada on the north, Spain on the south, and your western frontier against the savages. You have to adopt necessary plans for the settlement of your frontiers, and to institute the mode in which settlements and good governments are to be made.

How is the expense of supporting and regulating these important matters to be defrayed? By requisition on the states, according to the Jersey plan? Will this do it? We have already found it ineffectual. Let one state prove delinquent, and it will encourage others to follow the example; and thus the whole will fail. And what is the standard to quota among the states their respective proportions? Can lands be the standard? How would that apply between Russia and Holland? Compare Pennsylvania with North Carolina, or Connecticut with New York. Does not commerce or industry in the one or other make a great disparity between these different countries, and may not the comparative value of the states, from these circumstances, make an unequal disproportion when the data are numbers? I therefore conclude that either system would ultimately destroy the Confederation, or any other government which is established on such fallacious principles. Perhaps imposts—taxes on specific articles—would produce a more equal system of drawing a revenue.

Another objection against the Jersey plan is, the unequal representation. Can the great states consent to this? If they did, it would eventually work its own destruction. How are forces to be raised by the Jersey plan? By quotas? Will the states comply with the requisition? As much as they will with the taxes.

Examine the present Confederation, and it is evident they can raise no troops, nor equip vessels, before war is actually declared. They cannot, therefore, take any preparatory measure before an enemy is at your door. How unwise and inadequate their powers! and this must ever be the case when you attempt to define powers: something will always be wanting. Congress, by being annually elected, and subject to recall, will ever come with the prejudices of their states, rather than the good of the Union. Add, therefore, additional

powers to a body thus organized, and you establish a *sovereignty* of the worst kind, consisting of a single body. Where are the checks? None. They must either prevail over the state governments, or the prevalence of the state governments must end in their dissolution. This is a conclusive objection to the Jersey plan.

Such are the insuperable objections to both plans: and what is to be done on this occasion? I confess I am at a loss. I foresee the difficulty, on a consolidated plan, of drawing a representation from so extensive a continent to one place. What can be the inducements for gentlemen to come six hundred miles to a national legislature! The expense would at least amount to a hundred thousand pounds. This, however, can be no conclusive objection, if it eventuates in an extinction of state governments. The burden of the latter would be saved, and the expense, then, would not be great. State distinctions would be found unnecessary; and yet, I confess, to carry government to the extremities, the state governments, reduced to corporations, and with very limited powers, might be necessary, and the expense of the national government become less burdensome.

Yet, I confess, I see great difficulty of drawing forth a good representation. What, for example, will be the inducements for gentlemen of fortune and abilities to leave their houses and business to attend annually and long? It cannot be the wages; for these, I presume, must be small. Will not the power, therefore, be thrown into the hands of the demagogue, or middling politician — who, for the sake of a small stipend, and the hopes of advancement, will offer himself as a candidate, and the real men of weight and influence, by remaining at home, add strength to the state governments? I am at a loss to know what must be done. I despair that a republican form of government can remove the difficulties. Whatever may be my opinion, I would hold it, however, unwise to change that form of government. I believe the British government forms the best model the world ever produced; and such has been its progress in the minds of the many, that the truth gradually gains ground. This government has for its object *public strength* and *individual security*. It is said with us to be unattainable. If it was once formed, it would maintain itself. All communities divide themselves into the few and the many. The

first are the rich and well born, the other the mass of the people. The voice of the people has been said to be the voice of God; and, however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give, therefore, to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second; and, as they cannot receive any advantage by a change, they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontrollable disposition requires checks. The Senate of New York, although chosen for four years, we have found to be inefficient. Will, on the Virginia plan, a continuance of seven years do it? It is admitted that you cannot have a good executive upon a democratic plan. See the excellency of the British executive. He is placed above temptation — he can have no distinct interests from the public welfare. Nothing short of such an executive can be efficient. The weak side of a republican government is the danger of foreign influence. This is unavoidable, unless it is so constructed as to bring forward its first characters in its support. I am therefore for a general government, yet would wish to go the full length of republican principles.

Let one body of the legislature be constituted during good behavior or life.

Let one executive be appointed, who dares execute his powers. It may be asked, Is this a republican system? It is strictly so, as long as they remain elective.

And let me observe, that an executive is less dangerous to the liberties of the people when in office during life, than for seven years.

It may be said this constitutes an elective monarchy. Pray what is a monarchy? May not the governors of the respective states be considered in that light? But by making the executive subject to impeachment, the term *monarchy* cannot apply. These elective monarchs have produced tumults in Rome, and are equally dangerous to peace in Poland; but this cannot apply to the mode in which I propose the election. Let electors be appointed in each of

the states to elect the legislature, [*Here Mr. H. produced his plan.* See p. 179,] to consist of two branches; and I would give them the unlimited power of passing *all laws* without exception. The Assembly to be elected for three years, by the people, in districts; the Senate to be elected by electors to be chosen for that purpose by the people, and to remain in office during life. The executive to have the power of negating all laws; to make war or peace, with the advice of the Senate; to make treaties with their advice, but to have the sole direction of all military operations; and to send ambassadors, and appoint all military officers, and to pardon all offenders, treason excepted, unless by advice of the Senate. On his death or removal, the president of the Senate to officiate, with the same powers, until another is elected. Supreme judicial officers to be appointed by the executive and the Senate. The legislature to appoint courts in each state, so as to make the state governments unnecessary to it.

All state laws to be absolutely void which contravene the general laws. An officer to be appointed in each state to have a negative on all state laws. All the militia, and the appointment of officers, to be under the national government.

I confess that this plan, and that from Virginia, are very remote from the idea of the people. Perhaps the Jersey plan is nearest their expectation. But the people are gradually ripening in their opinions of government — they begin to be tired of an excess of democracy — and what even is the Virginia plan, but *pork still, with a little change of the sauce?* Then adjourned to to-morrow.

TUESDAY, June 19, 1787.

Met pursuant to adjournment. Present, eleven states.

On the consideration of the 1st resolve of the Jersey plan.

Mr. MADISON. This is an important question. Many persons scruple the powers of the Convention. If this remark had any weight, it is equally applicable to the adoption of either plan. The difference of drawing the powers in the one from the people, and in the other from the states, does not affect the powers. There are two states in the Union where the members of Congress are chosen by the people. A new government must be made. Our all is depending on it; and if we have but a clause that the people



will adopt, there is then a chance for our preservation. Although all the states have assented to the Confederation, an infraction of any one article by one of the states is a dissolution of the whole. This is the doctrine of the civil law on treaties.

Jersey pointedly refused complying with a requisition of Congress, and was guilty of this infraction, although she afterwards rescinded her non-complying resolve. What is the object of a confederation? It is twofold — 1st, to maintain the union; 2dly, good government. Will the Jersey plan secure these points? No; it is still in the power of the confederated states to violate treaties. Has not Georgia, in direct violation of the Confederation, made war with the Indians, and concluded treaties? Have not Virginia and Maryland entered into a partial compact? Have not Pennsylvania and Jersey regulated the bounds of the Delaware? Has not the state of Massachusetts, at this time, a considerable body of troops in pay? Has not Congress been obliged to pass a conciliatory act in support of a decision of their federal court, between Connecticut and Pennsylvania, instead of having the power of carrying into effect the judgment of their own court? Nor does the Jersey plan provide for a ratification, by the respective states, of the powers intended to be vested. It is also defective in the establishment of the judiciary, granting only an appellate jurisdiction, without providing for a second trial; and in case the executive of a state should pardon an offender, how will it affect the definite judgment on appeal? It is evident, if we do not *radically* depart from a federal plan, we shall share the fate of ancient and modern confederacies. The Amphictyonic council, like the American Congress, had the power of judging, in the *last resort*, in war and peace — to call out forces — send ambassadors. What was its fate or continuance? Philip of Macedon, with little difficulty, destroyed every appearance of it. The Athenian had nearly the same fate. The Helvetic confederacy is rather a league. In the German confederacy, the parts are too strong for the whole. The Dutch are in a most wretched situation — weak in all its parts, and only supported by surrounding contending powers.

The rights of individuals are infringed by many of the state laws — such as issuing paper money, and instituting a

mode to discharge debts differing from the form of the contract. Has the Jersey plan any checks to prevent the mischief? Does it in any instance secure internal tranquillity? Right and force, in a system like this, are synonymous terms. When force is employed to support the system, and men obtain military habits, is there no danger they may turn their arms against their employers? Will the Jersey plan prevent foreign influence? Did not Persia and Macedon distract the councils of Greece by acts of corruption? And are not Jersey and Holland at this day subject to the same distractions? Will not the plan be burdensome to the smaller states, if they have an equal representation? But how is military coercion to enforce government? True, a smaller state may be brought to obedience, or crushed; but what if one of the larger states should prove disobedient, — are you sure you can by force effect a submission? Suppose we cannot agree on any plan; what will be the condition of the smaller states? Will Delaware and Jersey be safe against Pennsylvania, or Rhode Island against Massachusetts? And how will the smaller states be situated in case of partial confederacies? Will they not be obliged to make larger concessions to the greater states? The point of representation is the great point of difference, and which the greater states cannot give up; and although there was an equalization of states, state distinctions would still exist. But this is totally impracticable; and what would be the effect of the Jersey plan if ten or twelve new states were added?

Mr. KING moved that the committee rise, and report that the Jersey plan is not admissible, and report the first plan.

Mr. DICKINSON supposed that there were good regulations in both. Let us therefore contrast the one with the other, and consolidate such parts of them as the committee approve.

Mr. KING'S motion was then put — for it, 7 states; 3 against; 1 divided. New York in the minority.

The committee rose and reported again the first plan, and the inadmissibility of the Jersey plan.

The Convention then proceeded to take the first plan into consideration.

The first resolve was read.

Mr. WILSON. I am (to borrow a sea phrase) for taking a new departure, and wish to consider in what direction we

sail, and what may be the end of our voyage. I am for a national government, though the idea of federal is, in my view, the same. With me it is not a desirable object to annihilate the state governments, and here I differ from the honorable gentleman from New York. In all extensive empires a subdivision of power is necessary. Persia, Turkey, and Rome under its emperors, are examples in point. These, although despots, found it necessary. A general government, over a great extent of territory, must in a few years make subordinate jurisdictions. Alfred the Great, that wise legislator, made this gradation, and the last division, on his plan, amounted only to ten territories. With this explanation, I shall be for the 1st resolve.

Mr. HAMILTON. I agree to the proposition. I did not intend yesterday a total extinguishment of state governments; but my meaning was, that a national government ought to be able to support itself without the aid or interference of the state governments, and that therefore it was necessary to have full sovereignty. Even with corporate rights, the states will be dangerous to the national government, and ought to be extinguished, new modified, or reduced to a smaller scale.

Mr. KING. None of the states are now sovereign or independent. Many of these essential rights are vested in Congress. Congress, by the Confederation, possesses the rights of the United States. This is a union of the men of those states. None of the states, individually or collectively, but in Congress, have the rights of *peace* or *war*. The magistracy in Congress possesses the sovereignty. To certain points we are now a united people. Consolidation is already established. The Confederation contains an article to make alterations. Congress have the right to propose such alterations. The 8th article, respecting the quotas of states, has been altered, and eleven states have agreed to it. Can it not be altered in other instances? It can, excepting the guaranty of the states.

Mr. MARTIN. When the states threw off their allegiance to Great Britain, they became independent of her and each other. They united and confederated for mutual defence, and this was done on principles of perfect reciprocity. They will now again meet on the same ground. But when a dissolution takes place, our original rights and sovereignties

are resumed. Our accession to the Union has been by states. If any other principle is adopted by this Convention, he will give it every opposition.

Mr. WILSON. The Declaration of Independence preceded the state constitutions. What does this declare? In the name of the people of these states, we are declared to be free and independent. The power of war, peace, alliances, and trade, are declared to be vested in Congress.

Mr. HAMILTON. I agree to Mr. Wilson's remark. Establish a weak government, and you must at times overleap the bounds. Rome was obliged to create dictators. Cannot you make propositions to the people, because we before confederated on other principles? The people can yield to them, if they will. The three great objects of government, *agriculture, commerce, and revenue*, can only be secured by a general government. Adjourned to to-morrow morning.

WEDNESDAY, June 20, 1787.

Met pursuant to adjournment. Present, eleven states.

Judge ELLSWORTH. I propose, and therefore move, to expunge the word "national," in the 1st resolve, and to place, in the room of it, "government of the United States;" which was agreed to, *nem. con.*

Mr. LANSING then moved that the 1st resolve be postponed, in order to take into consideration the following: "that the powers of legislation ought to be vested in the United States in Congress."

I am clearly of opinion that I am not authorized to accede to a system which will annihilate the state governments, and the Virginia plan is declarative of such extinction. It has been asserted that the public mind is not known. To some points it may be true; but we may collect from the fate of the requisition of the impost, what it may be on the principles of a national government. When many of the states were so tenacious of their rights on this point, can we expect that thirteen states will surrender their governments up to a national plan? Rhode Island pointedly refused granting it. Certainly she had a federal right to do so; and I hold it as an undoubted truth, as long as state distinctions remain, let the national government be modified as you please, both branches of your legislature will be impressed with local



and state attachments. The Virginia plan proposes a negative on the state laws where, in the opinion of the national legislature, they contravene the national government; and no laws can pass unless approved by them. They will have more than a law in a day to revise; and are they competent to judge of the wants and necessities of remote states?

This national government will, from their power, have great influence in the state governments; and the existence of the latter are only saved in appearance. And has it not been asserted that they expect their extinction? If this be the object, let us say so, and extinguish them at once. But remember, if we devise a system of government which will not meet the approbation of our constituents, we are dissolving the Union; but if we act within the limits of our power, it will be approved of; and should it, upon experiment, prove defective, the people will intrust a future convention again to amend it. Fond as many are of a general government, do any of you believe that it can pervade the whole continent so effectually as to secure the peace, harmony, and happiness, of the whole? The excellence of the British model of government has been much insisted on; but we are endeavoring to complicate it with state governments, on principles which will gradually destroy the one or the other. You are sowing the seeds of rivalry, which must at last end in ruin.

Mr. MASON. The material difference between the two plans has already been clearly pointed out. The objection to that of Virginia arises from the want of power to institute it, and the want of practicability to carry it into effect. Will the first objection apply to a power merely recommendatory? In certain seasons of public danger, it is commendable to exceed power. The treaty of peace, under which we now enjoy the blessings of freedom, was made by persons who exceeded their powers. It met the approbation of the public, and thus deserved the praises of those who sent them. The impracticability of the plan is still more groundless. These measures are supported by one who, at his time of life, has little to hope or expect from any government. Let me ask, Will the people intrust their dearest rights and liberties to the determination of one body of men, and those not chosen by them, and who are invested both with the *sword* and *purse*? They never will — they never

can — to a conclave, transacting their business secret from the eye of the public. Do we not discover by their public journals of the years 1778-9 and 1780, that factions and party spirit had guided many of their acts? The people of America, like all other people, are unsettled in their minds, and their principles fixed to no object, except that a republican government is the best, and that the legislature ought to consist of two branches. The constitutions of the respective states, made and approved of by them, evince this principle. Congress, however, from other causes, received a different organization. What! would you use military force to compel the observance of a social compact? It is destructive to the rights of the people. Do you expect the militia will do it? or do you mean a standing army? The first will never, on such an occasion, exert any power; and the latter may turn its arms against the government which employs them. I never will consent to destroy state governments, and will ever be as careful to preserve the one as the other. If we should, in the formation of the latter, have omitted some necessary regulation, I will trust my posterity to amend it. That the one government will be productive of disputes and jealousies against the other, I believe; but it will produce mutual safety. I shall close with observing that, though some have expressed much warmth on this and former occasions, I can excuse it, as the result of sudden passion; and hope that, although we may differ in some particular points, if we mean the good of the whole, that our good sense, upon reflection, will prevent us from spreading our discontent farther.

Mr. MARTIN. I know the government must be supported; and if the one was incompatible with the other, I would support the state government at the expense of the Union; for I consider the present system as a system of slavery. Impressed with this idea, I made use, on a former occasion, of expressions perhaps rather harsh. If gentlemen conceive that the legislative branch is dangerous, divide them into two. They are as much the representatives of the states as the state assemblies are the representatives of the people. Are not the powers which we here exercise given by the legislatures? [After giving a detail of the revolution and of state governments, Mr. M. continued:] I confess, when the Confederation was made, Congress ought to have

been invested with more extensive powers; but when the states saw that Congress indirectly aimed at sovereignty, they were jealous, and therefore refused any further concessions. The time is now come that we can constitutionally grant them not only new powers, but to modify their government, so that the state governments are not endangered. But whatever we have now in our power to grant, the grant is a state grant, and therefore it must be so organized that the state governments are interested in supporting the Union. Thus systematized, there can be no danger if a small force is maintained.

Mr. SHERMAN. We have found, during the war, that, though Congress consisted of but one branch, it was that body which carried us through the whole war; and we were crowned with success. We closed the war, performing all the functions of a good government, by making a beneficial peace. But the great difficulty now is, How shall we pay the public debt incurred during that war? The unwillingness of the states to comply with the requisitions of Congress has embarrassed us greatly. But to amend these defects in government, I am not fond of speculation. I would rather proceed on experimental ground. We can so modify the powers of Congress, that we will all be mutual supporters of one another. The disparity of the states can be no difficulty. We know this by experience. Virginia and Massachusetts were the first who unanimously ratified the old Confederation. They then had no claim to more votes in Congress than one. Foreign states have made treaties with us as confederated states, not as a national government. Suppose we put an end to that government under which those treaties were made; will not these treaties be void?

Mr. WILSON. The question before us may admit of the three following considerations:—

1. Whether the legislature shall consist of one or two branches.
2. Whether they are to be elected by the state governments or by the people.
3. Whether in proportion to state importance, or states individually.

Confederations are usually of a short date. The Amphictyonic council was instituted in the infancy of the Grecian republics. As those grew in strength, the council lost its weight and power. The Achæan league met the same fate. Switzerland and Holland are supported in their con

federation, not by its intrinsic merit, but the incumbent pressure of surrounding bodies. Germany is kept together by the house of Austria. True, Congress carried us through the war even against its own weakness. That powers were wanting, you, Mr. President, must have felt. To other causes, not to Congress, must the success be ascribed. That the great states acceded to the Confederation, and that they, in the hour of danger, made a sacrifice of their interest to the lesser states, is true. Like the wisdom of Solomon, in adjudging the child to its true mother, from tenderness to it, the greater states well knew that the loss of a limb was fatal to the Confederation: they, too, through tenderness, sacrificed their dearest rights to preserve the whole. But the time is come when justice will be done to their claims. Situations are altered.

Congress have frequently made their appeal to the people. I wish they had always done it: the national government would sooner have been extricated.

Question then put on Mr. Lansing's motion, and lost—6 states against 4, 1 divided. New York in the minority. Adjourned till to-morrow morning.

THURSDAY, *June 21*, 1787.

Met pursuant to adjournment. Present, eleven states.

Dr. JOHNSON. It appears to me that the Jersey plan has for its principal object the preservation of the state governments. So far it is a departure from the plan of Virginia, which, although it concentrates in a distinct national government, it is not totally independent of that of the states. A gentleman from New York, with boldness and decision, proposed a system totally different from both; and though he has been praised by every body, he has been supported by none. How can the state governments be secured on the Virginia plan? I could have wished that the supporters of the Jersey system could have satisfied themselves with the principles of the Virginia plan, and that the individuality of the states could be supported. It is agreed, on all hands, that a portion of government is to be left to the states. How can this be done? It can be done by joining the states, in their legislative capacity, with the right of appointing the second branch of the national legislature, to represent the states individually.



Mr. WILSON. If security is necessary to preserve the one, it is equally so to preserve the other. How can the national government be secured against the states? Some regulation is necessary. Suppose the national government had a competent number in the state legislature. But where the one government clashed with the other, the state government ought to yield, as the preservation of the general interest must be preferred to a particular. But let us try to designate the powers of each, and then no danger can be apprehended, nor can the general government be possessed of any ambitious views to encroach on the state rights.

Mr. MADISON. I could have wished that the gentleman from Connecticut had more accurately marked his objections to the Virginia plan. I apprehend the greatest danger is from the encroachment of the states on the national government. This apprehension is justly founded on the experience of ancient confederacies, and our own is a proof of it.

The right of negating, in certain instances, the state laws, affords one security to the national government. But is the danger well founded? Have any state governments ever encroached on the corporate rights of cities? And if it was the case that the national government usurped the state government, if such usurpation was for the good of the whole, no mischief could arise. To draw the line between the two is a difficult task. I believe it cannot be done, and therefore I am inclined for a general government.

If we cannot form a general government, and the states become totally independent of each other, it would afford a melancholy prospect.

The 2d resolve was then put and carried—7 states for, 3 against, 1 divided. New York in the minority.

The 3d resolve was then taken into consideration by the Convention.

Mr. PINCKNEY. I move “that the members of the first branch be appointed in such manner as the several state legislatures shall direct,” instead of the mode reported. If this motion is not agreed to, the other will operate with great difficulty, if not injustice. If you make district elections, and join, as I presume you must, many counties in one district, the largest county will carry the election, as its united influence will give a decided majority in its favor.

Mr. MADISON. I oppose the motion. There are difficulties, but they may be obviated in the details connected with the subject.

Mr. HAMILTON. It is essential to the democratic rights of the community that this branch be directly elected by the people. Let us look forward to probable events. There may be a time when state legislatures may cease; and such an event ought not to embarrass the national government.

Mr. MASON. I am for preserving inviolably the democratic branch of the government. True, we have found inconveniences from pure democracies; but if we mean to preserve peace and real freedom, they must necessarily become a component part of a national government. Change this necessary principle, and if the government proceeds to taxation, the states will oppose your powers.

Mr. SHERMAN thought that an amendment to the proposed amendment was necessary.

Gov. RUTLEDGE. It is said that an election by representatives is not an election by the people. This proposition is not correct. What is done by my order is done by myself. I am convinced that the mode of election by legislatures will be more refined, and better men will be sent.

Mr. WILSON. The legislatures of the states, by the proposed motion, will have an uncontrollable sway over the general government. Election is the exercise of *original* sovereignty in the people; but if by representatives, it is only *relative* sovereignty.

Mr. KING. The magistrates of the states will ever pursue schemes of their own; and this, on the proposed motion, will pervade the national government; and we know the state governments will be ever hostile to the general government.

Mr. PINCKNEY. All the reasoning of the gentlemen opposed to my motion has not convinced me of its impropriety. There is an *esprit du corps* which has made heretofore every *unfederal* member of Congress, after his election, become strictly *federal*; and this, I presume, will ever be the case, in whatever manner they may be elected.

Question put on Mr. Pinckney's motion, and carried by 6 states against 4; 1 divided.

Question then put on the resolve — 9 states for, 1 against, 1 divided.

Gov. RANDOLPH. I move that, in the resolve for the duration of the first branch of the general legislature, the word “three” be expunged, and the words “two years” be inserted.

Mr. DICKINSON. I am against the amendment. I propose that the word “three” shall remain, but that they shall be removable annually in classes.

Mr. SHERMAN. I am for one year. Our people are accustomed to annual elections. Should the members have a longer duration of service, and remain at the seat of government, they may forget their constituents, and perhaps imbibe the interest of the state in which they reside, or there may be danger of catching the *esprit du corps*.

Mr. MASON. I am for two years. One year is too short. In extensive states, four months may elapse before the returns can be known. Hence the danger of their remaining too long unrepresented.

Mr. HAMILTON. There is a medium in every thing. I confess three years is not too long. A representative ought to have full freedom of deliberation, and ought to exert an opinion of his own. I am convinced that the public mind will adopt a solid plan. The government of New York, although higher-toned than that of any other state, still we find great listlessness and indifference in the electors; nor do they, in general, bring forward the first characters to the legislature. The public mind is perhaps not now ready to receive the best plan of government, but certain circumstances are now progressing which will give a different complexion to it. *Two years'* duration agreed to. Adjourned till to-morrow morning.

FRIDAY, June 22, 1787.

Met pursuant to adjournment. The clause of the 3d resolve respecting the stipends taken into consideration.

Judge ELLSWORTH. I object to this clause. I think the state legislatures ought to provide for the members of the general legislature; and as each state will have a proportionate number, it will not be burdensome to the smaller states. I therefore move to strike out the clause.

Mr. GORHAM. If we intend to fix the stipend, it may

be an objection against the system, as the states would never adopt it. I join in the sentiment to strike out the whole.

Gov. RANDOLPH. I am against the motion. Are the members to be paid? Certainly. We have no sufficient fortunes to induce gentlemen to attend for nothing. If the state legislatures pay the members of the national council, they will control the members, and compel them to pursue state measures. I confess the payment will not operate impartially, but the members must be paid, and be made easy in their circumstances. Will they attend the service of the public without being paid?

Mr. SHERMAN. The states ought to pay their members; and I judge of the approbation of the people, on matters of government, by what I suppose they will approve.

Mr. WILSON. I am against going as far as the resolve. If, however, it is intended to throw the national legislature in the hand of the states, I shall be against it. It is possible the states may become unfederal, and they may then shake the national government. The members ought to be paid out of the national treasury.

Mr. MADISON. Our attention is too much confined to the present moment, when our regulations are intended to be perpetual. Our national government must operate for the good of the whole, and the people must have a general interest in its support; but if you make its legislators subject to, and at the mercy of, the state governments, you ruin the fabric; and whatever new states may be added to the general government, the expense will be equally borne.

Mr. HAMILTON. I do not think the states ought to pay the members, nor am I for a fixed sum. It is a general remark, that he who pays is the master. If each state pays its own members, the burden would be disproportionate, according to the distance of the states from the seat of government. If a national government can exist, members will make it a desirable object to attend, without accepting any stipend; and it ought to be so organized as to be efficient.

Mr. WILSON. I move that the stipend be ascertained by the legislature, and paid out of the national treasury.

Mr. MADISON. I oppose the motion. Members are too



much interested in the question. Besides, it is indecent that the legislature should put their hands in the public purse, to convey it into their own.

Question put on Mr. Wilson's motion, and negatived — 7 states against, 2 for, and 2 divided.

Mr. MASON moved to change the phraseology of the resolve; that is to say, to receive an adequate compensation for their services, and to be paid out of the treasury. This motion was agreed to.

Mr. RUTLEDGE. I move that the question be taken on these words, "to be paid out of the national treasury."

Mr. HAMILTON. It has been often asserted that the interests of the general and of the state legislatures are precisely the same. This cannot be true. The views of the governed are often materially different from those who govern. The science of policy is the knowledge of human nature. A state government will ever be the rival power of the general government. It is, therefore, highly improper that the state legislatures should be the paymasters of the members of the national government. All political bodies love power, and it will often be improperly attained.

Judge ELLSWORTH. If we are so exceedingly jealous of state legislatures, will they not have reason to be equally jealous of us? If I return to my state, and tell them, We made such and such regulations for a general government, because we dared not trust you with any extensive powers, — will they be satisfied? Nay, will they adopt your government? And let it ever be remembered that, without their approbation, your government is nothing more than a rope of sand.

Mr. WILSON. I am not for submitting the national government to the approbation of the state legislatures. I know that they and the state officers will oppose it. I am for carrying it to the people of each state.

Mr. Rutledge's motion was then put — 4 states for the clause, 5 against, 2 states divided. New York divided.

The clause, "to be ineligible to any office," &c., came next to be considered.

Mr. MASON moved that, after the words "two years," be added, "and to be of the age of twenty-five years."

Question put and agreed to — 7 ayes, 3 noes. New York divided.

Mr. GORHAM. I move that, after the words *and under the national government,* “for one year after its expiration” be struck out.

Mr. KING for the motion. It is impossible to carry the system of exclusion so far; and, in this instance, we refine too much by going to Utopian lengths. It is a mere cobweb.

Mr. BUTLER. We have no way of judging of mankind but by experience. Look at the history of the government of Great Britain, where there is a very flimsy exclusion. Does it not ruin their government? A man takes a seat in Parliament to get an office for himself or friends, or both; and this is the great source from which flows its great venality and corruption.

Mr. WILSON. I am for striking out the words moved for. Strong reasons must induce me to disqualify a good man from office. If you do, you give an opportunity to the dependent or avaricious man to fill it up, for to him offices are objects of desire. If we admit there may be cabal and intrigue between the executive and legislative bodies, the exclusion of one year will not prevent the effects of it. But we ought to hold forth every honorable inducement for men of abilities to enter the service of the public. This is truly a republican principle. Shall talents, which entitle a man to public reward, operate as a punishment? While a member of the legislature, he ought to be excluded from any other office, but no longer. Suppose a war breaks out, and a number of your best military characters were members; must we lose the benefit of their services? Had this been the case in the beginning of the war, what would have been our situation? And what has happened may happen again.

Mr. MADISON. Some gentlemen give too much weight, and others too little, to this subject. If you have no exclusive clause, there may be danger of creating offices, or augmenting the stipends of those already created, in order to gratify some members, if they were not excluded. Such an instance has fallen within my own observation. I am therefore of opinion that no office ought to be open to a member, which may be created or augmented while he is in the legislature.

Mr. MASON. It seems as if it were taken for granted that all offices will be filled by the executive, while I think

many will remain in the gift of the legislature. In either case, it is necessary to shut the door against corruption. If otherwise, they may make or multiply offices in order to fill them. Are gentlemen in earnest when they suppose that this exclusion will prevent the first characters from coming forward? Are we not struck at seeing the luxury and venality which has already crept in among us? If not checked, we shall have ambassadors to every petty state in Europe; the little republic of St. Marino not excepted. We must, in the present system, remove the temptation. I admire many parts of the British constitution and government, but I detest their corruption. Why has the power of the crown increased, so remarkably increased, the last century? A stranger, by reading their laws, would suppose it considerably diminished; and yet, by the sole power of appointing the increased officers of the government, corruption pervades every town and village in the kingdom. If such a restriction should abridge the right of election, it is still necessary, as it will prevent the people from ruining themselves. And will not the same causes here produce the same effects? I consider this clause as the corner-stone on which our liberties depend; and if we strike it out, we are erecting a fabric for our destruction.

Mr. GORHAM. The corruption of the English government cannot be applied to America. This evil exists there in the venality of their boroughs; but even this corruption has its advantage, as it gives stability to their government. We do not know what the effect would be, if members of Parliament were excluded from offices. The great bulwark of our liberty is the frequency of elections, and their great danger is the septennial Parliaments.

Mr. HAMILTON. In all general questions which become the subjects of discussion, there are always some truths mixed with falsehoods. I confess there is danger where men are capable of holding two offices. Take mankind in general, they are vicious — their passions may be operated upon. We have been taught to reprobate the danger of influence in the British government, without duly reflecting how far it was necessary, to support a good government. We have taken up many ideas upon trust, and at last, pleased with our own opinions, establish them as undoubted truths. Hume's opinion of the British constitution confirms the remark,

that there is always a body of firm patriots, who often shake a corrupt administration. Take mankind as they are, and what are they governed by? Their passions. There may be in every government a few choice spirits, who may act from more worthy motives. One great error is, that we suppose mankind more honest than they are. Our prevailing passions are ambition and interest; and it will ever be the duty of a wise government to avail itself of those passions, in order to make them subservient to the public good; for these ever induce us to action. Perhaps a few men in a state may, from patriotic motives, or to display their talents, or to reap the advantage of public applause, step forward; but if we adopt the clause, we destroy the motive. I am therefore against all exclusion and refinements, except only this case, that, when a member takes his seat, he should vacate every other office. It is difficult to put any exclusive regulation into effect. We must, in some degree, submit to the inconvenience.

The question was then put for striking out — 4 ayes, 4 noes, 3 states divided, New York of the number.

Adjourned till to-morrow morning.

SATURDAY, *June 23, 1787.*

Met pursuant to adjournment. Present, eleven states.

Mr. GORHAM. I move that the question which was yesterday proposed on the clause, "to be paid out of the national treasury," be now put.

Question put — 5 ayes, 5 noes, 1 state divided. So the clause was lost.

Mr. PINCKNEY moved that that part of the clause which disqualifies a person from holding an office in the state be expunged, because the first and best characters in a state may thereby be deprived of a seat in the national council.

Mr. WILSON. I perceive that some gentlemen are of opinion to give a bias in favor of state governments. This question ought to stand on the same footing.

Mr. SHERMAN. By the conduct of some gentlemen, we are erecting a kingdom to act against itself. The legislature ought to be free and unbiased.

Question put to strike out the words moved for, and carried — 8 ayes, 3 noes.

Mr. MADISON then moved that after the word "estab-



lished," be added, "or the emoluments whereof shall have been augmented, by the legislature of the United States," during the time they were members thereof, and for one year thereafter.

Mr. BUTLER. The proposed amendment does not go far enough. How easily may this be evaded! What was the conduct of George II., to support the Pragmatic Sanction? To some of the opposers he gave pensions, others offices, and some, to put them out of the House of Commons, he made lords. The great Montesquieu says it is unwise to intrust persons with power, which, by being abused, operates to the advantage of those intrusted with it.

Gov. RUTLEDGE was against the proposed amendment. No person ought to come to the legislature with an eye to his own emolument in any shape.

Mr. MASON. I differ from my colleague in his proposed amendment. Let me state the practice in the state where we came from. There all officers are appointed by the legislature. Need I add, that many of their appointments are most shameful? Nor will the check proposed by this amendment be sufficient. It will soon cease to be any check at all. It is asserted that it will be very difficult to find men sufficiently qualified as legislators without the inducement of emolument. I do believe that men of genius will be deterred, unless possessed of great virtues. We may well dispense with the first characters when destitute of virtue. I should wish them never to come forward. But if we do not provide against corruption, our government will soon be at an end; nor would I wish to put a man of virtue in the way of temptation. Evasions and caballing would elude the amendment. Nor would the danger be less if the executive has the appointment of officers. The first three or four years we might go on well enough, but what would be the case afterwards? I will add, that such a government ought to be refused by the people; and it will be refused.

Mr. MADISON. My wish is, that the national legislature be as uncorrupt as possible. I believe all public bodies are inclined, from various motives, to support their members; but it is not always done from the base motives of venality. Friendship, and a knowledge of the abilities of those with whom they associate, may produce it. If you bar the door

against such attachments, you deprive the government of its greatest strength and support. Can you always rely on the patriotism of the members? If this be the only inducement, you will find a great indifferency in filling your legislative body. If we expect to call forth useful characters, we must hold out allurements; nor can any great inconveniency arise from such inducements. The legislative body must be the road to public honor; and the advantage will be greater to adopt my motion, than any possible inconveniency.

Mr. KING. The intimate association of offices will produce a vigorous support to your government. To check it would produce no good consequences. Suppose connections are formed. Do they not all tend to strengthen the government under which they are formed? Let, therefore, preferment be open to all men. We refine, otherwise, too much; nor is it possible we can eradicate the evil.

Mr. WILSON. I hope the amendment will be adopted. By the last vote, it appears that the Convention have no apprehension of danger of state appointments. It is equally imaginary to apprehend any from the national government. That such officers will have influence in the legislature, I readily admit; but I would not therefore exclude them. If any ill effects were to result from it, the bargain can as well be made with the legislature as with the executive. We ought not to shut the door of promotion against the great characters in the public councils, from being rewarded by being promoted. If otherwise, will not these gentlemen be put in the legislatures to prevent them from holding offices, by those who wish to enjoy them themselves?

Mr. SHERMAN. If we agree to this amendment, our good intentions may be prostrated, by changing offices, to avoid or evade the rule.

Mr. GERRY. This amendment is of great weight, and its consequences ought to be well considered. At the beginning of the war, we possessed more than Roman virtue. It appears to me it is now the reverse. We have more land and stock-jobbers than any place on earth. It appears to me that we have constantly endeavored to keep distinct the three great branches of government; but if we agree to this motion, it must be destroyed by admitting the legislators to share in the executive, or to be too much influenced by the executive, in looking up to him for offices.

Mr. MADISON. This question is certainly of much moment. There are great advantages in appointing such persons as are known. The choice otherwise will be chance. How will it operate on the members themselves? Will it not be an objection to become members, when they are to be excluded from office? For these reasons I am for the amendment.

Mr. BUTLER. These reasons have no force. Characters fit for offices will always be known.

Mr. MASON. It is said, it is necessary to open the door to induce gentlemen to come into the legislature. This door is open, but not immediately. A seat in the house will be the field to exert talents; and when to a good purpose, they will in due time be rewarded.

Mr. JENIFER. Our senators are appointed for five years, and they can hold no other office. This circumstance gives them the greatest confidence of the people.

The question was put on Mr. Madison's amendment, and lost — 8 noes, 2 ayes, 1 state divided.

Question on the clause as amended before. Carried — 8 ayes, 2 noes, 1 state divided.

The question was next on the latter part of the clause.

Mr. MASON. We must retain this clause, otherwise evasions may be made. The legislature may admit of resignations, and thus make members eligible; places may be promised at the close of their duration, and thus a dependency may be made.

Mr. GERRY. And this actually has been the case in Congress. A member resigned to obtain an appointment; and had it failed, he would have resumed it.

Mr. HAMILTON. The clause may be evaded many ways. Offices may be held by proxy; they may be procured by friends, &c.

Mr. RUTLEDGE. I admit, in some cases, it may be evaded; but this is no argument against shutting the door as close as possible.

The question was then put on this clause, to wit: "and for the space of one year after its expiration," and negatived.

Then adjourned to Monday morning.

MONDAY, *June 25, 1781.*

Met pursuant to adjournment. Present, eleven states.

Mr. C. PINCKNEY. On the question upon the second branch of the general legislature, as reported by the committee in the 4th resolve, now under consideration, it will be necessary to inquire into the true situation of the people of this country. Without this, we can form no adequate idea what kind of government will secure their rights and liberties. There is more equality of rank and fortune in America than in any other country under the sun; and this is likely to continue as long as the unappropriated western lands remain unsettled. They are equal in rights, nor is extreme of poverty to be seen in any part of the Union. If we are thus singularly situated, both as to fortune and rights, it evidently follows that we cannot draw any useful lessons from the examples of any of the European states or kingdoms; much less can Great Britain afford us any striking institution, which can be adapted to our own situation — unless we indeed intend to establish an hereditary executive, or one for life. Great Britain drew its first rude institutions from the forests of Germany, and with them that of its nobility. These having originally in their hands the property of the state, the crown of Great Britain was obliged to yield to the claims of power which those large possessions enabled them to assert. The Commons were then too contemptible to form part of the national councils. Many Parliaments were held without their being represented; until, in process of time, under the protection of the crown, and forming distinct communities, they obtained some weight in the British government. From such discordant materials, brought casually together, those admirable checks and balances, now so much the boast of the British constitution, took their rise. But will we be able to copy from this original? Do not suppose that in the Confederation there are one hundred gentlemen of sufficient fortunes to establish a nobility; and the equality of others as to rank would never admit of the distinctions of nobility. I lay it therefore down as a settled principle, that equality of condition is a leading axiom in our government. It may be said we must necessarily establish checks, lest one rank of people usurp the rights of another. Commerce can never interfere with the government, nor give a complexion to its councils. Can we copy from Greece or Rome? Have we their nobles or patricians? With them offices were open to few. The different ranks in the community formed opposite



interests, and produced unceasing struggles and disputes. Can this apply to the free yeomanry of America? We surely differ from the whole. Our situation is unexampled; and it is in our power, on different grounds, to secure civil and religious liberty; and when we secure these, we secure every thing that is necessary to establish happiness. We cannot pretend to rival the European nations in their grandeur or power; nor is the situation of any two nations so exactly alike as that the one can adopt the regulations or government of the other. If we have any distinctions, they may be divided into three classes:—

1. Professional men. 2. Commercial men. 3. The landed interest.

The latter is the governing power of America, and the other two must ever be dependent on them. Will a national government suit them? No. The three orders have necessarily a mixed interest; and in that view—I repeat it again—the United States of America compose, in fact, but one order. The clergy and nobility of Great Britain can never be adopted by us. Our government must be made suitable to the people; and we are, perhaps, the only people in the world who ever had sense enough to appoint delegates to establish a general government. I believe that the propositions from Virginia, with some amendments, will satisfy the people. But a general government must not be dependent on the state governments.

The United States include a territory of about fifteen hundred miles in length, and in breadth about four hundred, the whole of which is divided into states and districts. While we were dependent on the crown of Great Britain, it was in contemplation to form the whole into one; but it was found impracticable. No legislature could make good laws for the whole, nor can it now be done. It would necessarily place the power in the hands of the few nearest the seat of government. State governments must therefore remain, if you mean to prevent confusion. The general negative powers will support the general government. Upon these considerations, I am led to form the second branch differently from the report. Their powers are important, and the number not too large, upon the principle of proportion. I have considered the subject with great attention; and I propose this plan, [reads it;] and if no better plan is proposed, I will then move its adoption.

Mr. RANDOLPH moved that the 4th resolve be divided, in the same manner as the 3d resolve.

Mr. GORHAM moved the question on the 1st resolve. Sixteen members from one state will certainly have greater weight than the same number of members from different states. We must therefore depart from this rule of appointment in some shape or other — perhaps on the plan Mr. Pinckney has suggested.

Mr. READ. Some gentlemen argue, that the representation must be determined according to the weight of each state; that we have heretofore been partners in trade, in which we all put in our respective proportions of stock; that the articles of our copartnership were drawn in forming the Confederation; and that, before we make a new copartnership, we must first settle the old business. But to drop the allusion: We find that the great states have appropriated to themselves the common lands in their respective states. These lands, having been forfeited as heretofore belonging to the king, ought to be applied to the discharge of our public debts. Let this still be done, and then, if you please, proportion the representation, and we shall not be jealous of one another — a jealousy in a great measure owing to the public property appropriated by individual states, and which, as it has been gained by the united power of the Confederation, ought to be appropriated to the discharge of the public debts.

Mr. GORHAM. This motion has been agitated often in Congress; and it was owing to the want of power, rather than inclination, that it was not justly settled. Great surrenders have been made by the great states, for the benefit of the Confederation.

Mr. WILSON. The question now before us is, whether the second branch of the general legislature shall, or shall not, be appointed by the state legislatures. In every point of view, it is an important question. The magnitude of the objects is indeed embarrassing. The great system of Henry IV. of France, aided by the greatest statesmen, is small when compared to the fabric we are now about to erect. In laying the stone amiss, we may injure the superstructure; and what will be the consequence, if the corner-stone should be loosely placed? It is improper that the state legislatures should have the power contemplated to be given them A

citizen of America may be considered in two points of view — as a citizen of the general government, and as a citizen of the particular state in which he may reside. We ought to consider in what character he acts in forming a general government. I am both a citizen of Pennsylvania and of the United States. I must therefore lay aside my state connections, and act for the general good of the whole. We must forget our local habits and attachments. The general government should not depend on the state governments. This ought to be a leading distinction between the one and the other; nor ought the general government to be composed of an assemblage of different state governments. We have unanimously agreed to establish a general government — that the powers of peace, war, treaties, coinage, and regulation of *commerce*, ought to reside in that government. And if we reason in this manner, we shall soon see the impropriety of interference of state governments with the general government. Equality of representation cannot be established, if the second branch is elected by the state legislatures. When we are laying the foundation of a building which is to last for ages, and in which millions are interested, it ought to be well laid. If the national government does not act upon state prejudices, state distinctions will be lost. I therefore move that the second branch of the legislature of the national government be elected by electors chosen by the people of the United States.

Judge ELLSWORTH. I think the second branch of the general legislature ought to be elected agreeably to the report. The other way, it is said, will be more the choice of the people. The one mode is as much so as the other. No doubt every citizen of every state is interested in the state governments; and elect him in whatever manner you please, whenever he takes a seat in the general government, it will prevail in some shape or other. The state legislatures are more competent to make a judicious choice than the people at large. Instability pervades their choice. In the second branch of the general government, we want wisdom and firmness. As to balances, where nothing can be balanced, it is a perfect Utopian scheme. But still great advantages will result in having a second branch endowed with the qualifications I have mentioned. Their weight and wisdom may check the inconsiderate and hasty proceedings of the first branch.

I cannot see the force of the reasoning in attempting to detach the state governments from the general government. In that case, without a standing army, you cannot support the general government but on the pillars of the state governments. Are the larger states more energetic than the smaller? Massachusetts cannot support a government at the distance of one hundred miles from her capital without an army; and how long Virginia and Pennsylvania will support their governments it is difficult to say. Shall we proceed like unskilful workmen, and make use of timber which is too weak to build a first-rate ship? We know that the people of the states are strongly attached to their own constitutions. If you hold up a system of general government, destructive of their constitutional rights, they will oppose it. Some are of opinion that, if we cannot form a general government so as to destroy state governments, we ought at least to balance the one against the other. On the contrary, the only chance we have to support a general government is, to draft it on the state governments. I want to proceed on this ground, as the safest, and I believe no other plan is practicable. In this way, and in this way only, can we rely on the confidence and support of the people.

Mr. JOHNSON. The state governments must be preserved; but this motion leaves them at the will and pleasure of the general government.

Mr. MADISON. I find great differences of opinion, in this Convention, on the clause now under consideration. Let us postpone it, in order to take up the 8th resolve, that we may previously determine the mode of representation.

Mr. MASON. All agree that a more efficient government is necessary. It is equally necessary to preserve the state governments, as they ought to have the means of self-defence. On the motion of Mr. Wilson, the only means they ought to have would be destroyed.

The question was put for postponing, in order to take into consideration the 8th resolve, and lost — 7 noes, 4 ayes.

Question on the 1st clause in the 4th resolve — 9 states for, 2 against it.

The age of the senators (thirty years) agreed to.

Mr. GORHAM proposed that the senators be classed, and to remain four years in office; otherwise great inconveniences may arise, if a dissolution should take place at once.



Gov. RANDOLPH. This body must act with firmness. They may possibly always sit — perhaps to aid the executive. The state governments will always attempt to counteract the general government. They ought to go out in classes. Therefore I move that they go out of office in fixed proportions of time, instead of the words “seven years.”

Mr. READ moved (though not seconded) that they ought to continue in office during good behavior.

Mr. WILLIAMSON moved that they remain in office for six years.

Mr. PINCKNEY. I am for four years. Longer time would give them too great attachment to the states where the general government may reside. They may be induced, from the proposed length of time, to sell their estates, and become inhabitants near the seat of government.

Mr. MADISON. We are proceeding in the same manner that was done when the Confederation was first formed. Its original draft was excellent, but in its progress and completion it became so insufficient as to give rise to the present Convention. By the vote already taken, will not the temper of the state legislatures transfuse itself into the Senate? Do we create a free government?

Question on Governor Randolph's motion — 7 ayes, 3 noes, 1 divided.

Motion to fix the term of service at six years — 5 ayes, 5 noes, 1 divided.

Do. for five years — 5 ayes, 5 noes, 1 divided.

The question for four years was not put; and the Convention adjourned till to-morrow morning.

TUESDAY, *June 26*, 1787.

Met pursuant to adjournment. Present, eleven states.

Mr. GORHAM. My motion for four years' continuance was not put yesterday. I am still of opinion that classes will be necessary, but I would alter the time. I therefore move that the senators be elected for six years, and that the rotation be triennial.

Mr. PINCKNEY. I oppose the time, because of too long a continuance. The members will, by this means, be too long separated from their constituents, and will imbibe attachments different from that of the state; nor is there any danger that members, by a shorter duration of office.

will not support the interest of the Union, or that the states will oppose the general interest. The state of South Carolina was never opposed, in principle, to Congress, nor thwarted their views in any case, except in the requisition of money and then only for want of power to comply; for it was found there was not money enough in the state to pay their requisition.

Mr. READ moved that the term of "nine years" be inserted, in triennial rotation.

Mr. MADISON. We are now to determine whether the republican form shall be the basis of our government. I admit there is weight in the objection of the gentleman from South Carolina; but no plan can steer clear of objections. That great powers are to be given there is no doubt; and that those powers may be abused is equally true. It is also probable that members may lose their attachments to the states which sent them; yet the first branch will control them in many of their abuses. But we are now forming a body on whose wisdom we mean to rely, and their permanency in office secures a proper field in which they may exert their firmness and knowledge. Democratic communities may be unsteady, and be led to action by the impulse of the moment. Like individuals, they may be sensible of their own weakness, and may desire the counsels and checks of friends, to guard them against the turbulency and weakness of unruly passions. Such are the various pursuits of this life, that, in all civilized countries, the interest of a community will be divided. There will be debtors and creditors, and an unequal possession of property; and hence arise different views and different objects in government. This, indeed, is the groundwork of aristocracy, and we find it blended in every government, both ancient and modern. Even where titles have survived property, we discover the noble beggar haughty and assuming.

The man who is possessed of wealth, who lolls on his sofa or rolls in his carriage, cannot judge of the wants or feelings of the day-laborer. The government we mean to erect is intended to last for ages. The landed interest, at present, is prevalent; but in process of time, when we approximate to the states and kingdoms of Europe, — when the number of landholders shall be comparatively small, through the various means of trade and manufactures, —

will not the landed interest be overbalanced in future elections? and, unless wisely provided against, what will become of your government? In England, at this day, if elections were open to all classes of people, the property of landed proprietors would be insecure. An agrarian law would soon take place. If these observations be just, our government ought to secure the permanent interests of the country against innovation. Landholders ought to have a share in the government, to support these invaluable interests, and to balance and check the other. They ought to be so constituted as to protect the minority of the opulent against the majority. The Senate, therefore, ought to be this body; and, to answer these purposes, they ought to have permanency and stability. Various have been the propositions; but my opinion is, the longer they continue in office, the better will these views be answered.

Mr. SHERMAN. The two objects of this body are permanency, and safety to those who are to be governed. A bad government is the worse for being long. Frequent elections give security, and even permanency. In Connecticut we have existed one hundred and thirty-two years under an annual government; and as long as a man behaves himself well, he is never turned out of office. Four years to the Senate is quite sufficient, when you add to it the rotation proposed.

Mr. HAMILTON. This question has already been considered in several points of view. We are now forming a republican government. Real liberty is neither found in despotism nor the extremes of democracy, but in moderate governments.

Those who mean to form a solid republican government ought to proceed to the confines of another government. As long as offices are open to all men, and no constitutional rank is established, it is pure republicanism. But if we incline too much to democracy, we shall soon shoot into a monarchy. The difference of property is already great amongst us. Commerce and industry will still increase the disparity. Your government must meet this state of things, or combinations will, in process of time, undermine your system. What was the tribunitial power of Rome? It was instituted by the plebeians, as a guard against the patricians. But was this a sufficient check? No. The only distinction

which remained at Rome was, at last, between the rich and poor. The gentleman from Connecticut forgets that the democratic body is already secure in a representation. As to Connecticut, what were the little objects of their government before the revolution? Colonial concerns merely. They ought now to act on a more extended scale: and dare they do this? Dare they collect the taxes and requisitions of Congress? Such a government may do well, if they do not tax; and this is precisely their situation.

Mr. GERRY. It appears to me that the American people have the greatest aversion to monarchy; and the nearer our government approaches to it, the less chance have we for their approbation. Can gentlemen suppose that the reported system can be approved of by them? Demagogues are the great pests of our government, and have occasioned most of our distresses. If four years are insufficient, a future convention may lengthen the time.

Mr. WILSON. The motion is now for nine years, and a triennial rotation. Every nation attends to its foreign intercourse; to support its commerce; to prevent foreign contempt; and to make war and peace. Our Senate will be possessed of these powers, and therefore ought to be dignified and permanent. What is the reason that Great Britain does not enter into a commercial treaty with us? Because Congress has not the power to enforce its observance. But give them those powers, and give them the stability proposed by the motion, and they will have more permanency than a monarchical government. The great objection of many is, that this duration would give birth to views inconsistent with the interests of the Union. This can have no weight, if the triennial rotation is adopted; and this plan may possibly tend to conciliate the minds of the members of the Convention on this subject, which have varied more than on any other question.

The question was then put on Mr. Read's motion, and lost — 8 yeas, 3 nays.

The question on five years, and a biennial rotation, was carried — 7 yeas, 4 nays. New York in the minority.

Mr. PINCKNEY. I move that the clause for granting stipends be stricken out.

Question put — 5 yeas, 6 nays.

On the amendment to the question, to receive a compensation — 10 yeas, 1 nay.



Judge EILSWORTH. I move that the words "out of the national treasury" be stricken out, and the words "the respective state legislatures" be inserted.

If you ask of the states what is reasonable, they will comply; but if you ask of them more than is necessary to form a good government, they will grant you nothing.

Capt. DAYTON. The members should be paid from the general treasury, to make them independent.

The question was put on the amendment, and lost — 5 ayes, 6 noes.

Mr. MASON. I make no motion, but throw out, for the consideration of the Convention, whether a person in the second branch ought not to be qualified as to property.

The question was then put on the clause, and lost — 5 ayes, 6 noes.

It was moved to strike out the clause "to be ineligible to any state office."

Mr. MADISON. Congress heretofore depended on state interests; we are now going to pursue the same plan.

Mr. WILSON. Congress has been ill managed, because particular states controlled the Union. In this Convention, if a proposal is made promising independency to the general government, before we have done with it, it is so modified and changed as to amount to nothing. In the present case, the states may say, Although I appoint you for six years, yet if you are against the state, your table will be unprovided. Is this the way you are to erect an independent government?

Mr. BUTLER. This second branch I consider as the aristocratic part of our government; and they must be controlled by the states, or they will be too independent.

Mr. PINCKNEY. The states and general government must stand together. On this plan have I acted throughout the whole of this business. I am therefore for expunging the clause. Suppose a member of this house was qualified to be a state judge; must the state be prevented from making the appointment?

Question put for striking out — 8 ayes, 3 noes

The 5th resolve, that each house have the right of originating bills, was taken into consideration, and agreed to.

Adjourned till to-morrow morning.

WEDNESDAY, June 27, 1787.

Met pursuant to adjournment. Present, eleven states.

The 6th resolve was postponed, in order to take into consideration the 7th and 8th resolves. The 1st clause of the 7th was proposed for consideration, which respected the suffrage of each state in the first branch of the legislature.

[Mr. MARTIN, the attorney-general from Maryland, spoke on this subject upwards of three hours. As his arguments were too diffuse, and in many instances desultory, it was not possible to trace him through the whole, or to methodize his ideas into a systematic or argumentative arrangement. I shall therefore only note such points as I conceive merit most particular notice. — See page 344, for his remarks at large.]

The question is important, (said Mr. Martin,) and I have already expressed my sentiments on the subject. My opinion is, that the general government ought to protect and secure the state governments. Others, however, are of a different sentiment, and reverse the principle.

The present reported system is a perfect medley of confederated and national government, without example and without precedent. Many, who wish the general government to protect the state governments, are anxious to have the line of jurisdiction well drawn and defined, so that they may not clash. This suggests the necessity of having this line well detailed: possibly this may be done. If we do this, the people will be convinced that we meant well to the state governments; and should there be any defects, they will trust a future convention, with the power of making further amendments.

A general government may operate on individuals in cases of general concern, and still be federal. This distinction is with the states, as states, represented by the people of those states. States will take care of their internal police and local concerns. The general government has no interest but the protection of the whole. Every other movement must fail. We are proceeding, in forming this government, as if there were no state governments at all. The states must approve, or you will have none at all. I have never heard of a confederacy having two legislative branches. Even the celebrated Mr. Adams, who talks so much of checks and balances, does not suppose it necessary in a confederacy. Public and domestic debts are our great distress. The treaty between Virginia and Maryland, about the navigation of the

Chesapeake and Potomac, is no infraction of the Confederacy. The corner-stone of a federal government is equality of votes. States may surrender this right; but if they do, their liberties are lost. If I err on this point, it is the error of the head, not of the heart.

The first principle of government is founded on the natural rights of individuals, and in perfect equality. Locke, Vattel, Lord Somers, and Dr. Priestley, all confirm this principle. This principle of equality, when applied to an individual, is lost, in some degree, when he becomes a member of a society, to which it is transferred; and this society, by the name of *state* or *kingdom*, is, with respect to others, again on a perfect footing of equality — a right to govern themselves as they please. Nor can any other state, of right, deprive them of this equality. If such a state confederates, it is intended for the good of the whole; and if it again confederates, those rights must be well guarded. Nor can any state demand a surrender of any of those rights; if it can, equality is already destroyed. We must treat, as free states, with each other, upon the same terms of equality that men originally formed themselves into societies. Vattel, Rutherford, and Locke, are united in support of the position, that states, as to each other, are in a state of nature.

Thus, says Mr. Martin, have I travelled with the most respectable authorities in support of principles all tending to prove the equality of independent states. This is equally applicable to the smallest as well as the largest states, on the true principles of reciprocity and political freedom.

Unequal confederacies can never produce good effects. Apply this to the Virginia plan. Out of the number 90, Virginia has 16 votes, Massachusetts 14, Pennsylvania 12; in all 42. Add to this a state having four votes, and it gives a majority in the general legislature. Consequently, a combination of these states will govern the remaining nine or ten states. Where are the safety and independency of those states? Pursue this subject farther. The executive is to be appointed by the legislature, and becomes the executive in consequence of this undue influence; and hence flows the appointment of all your officers, civil, military, and judicial. The executive is also to have a negative on all laws. Suppose the possibility of a combination of ten states: he negatives a law; it is totally lost, because those states cannot

form two thirds of the legislatures. I am willing to give up private interest to the public good; but I must be satisfied first that it is the public interest; and who can decide this point? A majority, only, of the Union.

The Lacedemonians insisted, in the Amphictyonic council, to exclude some of the smaller states from a right to vote, in order that they might tyrannize over them. If the plan now on the table be adopted, three states in the Union have the control, and they may make use of their power when they please.

If there exist no separate interests, there is no danger in an equality of votes; and if there be danger, the smaller states cannot yield. If the foundation of the existing Confederation is well laid, powers may be added. You may safely add a third story to a house, where the foundation is good. Read, then, the votes and proceedings of Congress on forming the Confederation. Virginia only was opposed to the principles of equality. The smaller states yielded rights, not the large states. They gave up their claim to the unappropriated lands with the tenderness of the mother recorded by Solomon. They sacrificed affection to the preservation of others. New Jersey and Maryland rendered more essential services during the war than many of the larger states. The partial representation in Congress is not the cause of its weakness, but the want of power. I would not trust a government, organized upon the reported plan, for all the slaves of Carolina, or the horses and oxen of Massachusetts. Price says that laws made by one man, or a set of men, and not by common consent, is slavery. And it is so when applied to states, if you give them an unequal representation. What are called human feelings, in this instance, are only the feelings of ambition and the lust of power.

Adjourned till to-morrow morning.

THURSDAY, *June 28, 1787.*

Met pursuant to adjournment. Mr. MARTIN, in continuation. On federal grounds, it is said that a minority will govern a majority; but on the Virginia plan, a minority would tax a majority. In a federal government, a majority of states must and ought to tax. In local government of states, counties may be unequal: still numbers, not property, govern. What is the government now forming — over states or per-



sons? As to the latter, their rights cannot be the object of a general government. These are already secured by their guardians, the state governments. The general government is, therefore, intended only to protect and guard the rights of the states as states.

This general government, I believe, is the first upon earth which gives checks against democracies or aristocracies. The only necessary check, in a general government, ought to be a restraint to prevent its absorbing the powers of the state governments. Representation, on federal principles, can only flow from state societies. Representation and taxation are ever inseparable — not according to the quantum of property, but the quantum of freedom.

Will the representatives of a state forget state interests? The mode of election cannot change it. These prejudices cannot be eradicated. Your general government cannot be just or equal, upon the Virginia plan, unless you abolish state interests. If this cannot be done, you must go back to principles purely federal.

On this latter ground, the state legislatures and their constituents will have no interests to pursue different from the general government, and both will be interested to support each other.

Under these ideas, can it be expected that the people can approve the Virginia plan? But it is said, the people, not the state legislatures, will be called upon for approbation — with an evident design to separate the interest of the governors from the governed. What must be the consequence? Anarchy and confusion. We lose the idea of the powers with which we are intrusted. The legislatures must approve.

By them it must, on your own plan, be laid before the people. How will such a government, over so many great states, operate? Wherever new settlements have been formed in large states, they immediately want to shake off their dependency. Why? Because the government is too remote for their good. The people want it nearer home.

The basis of all ancient and modern confederacies is the freedom and the independency of the states composing it. The states forming the Amphictyonic council were equal, though Lacedemon, one of the greatest states, attempted the exclusion of three of the lesser states from this right. The

plan reported, it is true, only intends to diminish those rights, not to annihilate them. It was the ambition and power of the great Grecian states which at last ruined their respectable council. The states, as societies, are ever respectable. Has Holland or Switzerland ever complained of the equality of the states which compose their respective confederacies? Berne and Zurich are larger than the remaining eleven cantons. So of many of the states of Germany; and yet their governments are not complained of. Berne alone might usurp the whole power of the Helvetic confederacy, but she is contented still with being equal.

The admission of the larger states into the Confederation, on the principles of equality, is dangerous. But on the Virginia system, it is ruinous and destructive. Still it is the true interest of all the states to confederate. It is their joint efforts which must protect and secure us from foreign danger, and give us peace and harmony at home.

[Here Mr. MARTIN entered into a detail of the comparative powers of each state, and stated their probable weakness and strength.]

At the beginning of our troubles with Great Britain, the smaller states were attempted to be cajoled to submit to the views of that nation, lest the larger states should usurp their rights. We then answered them, Your present plan is slavery, which, on the remote prospect of a distant evil, we will not submit to.

I would rather confederate with any single state than submit to the Virginia plan. But we are already confederated, and no power on earth can dissolve it but by the consent of *all* the contracting powers; and four states, on this floor, have already declared their opposition to annihilate it. Is the old Confederation dissolved, because some of the states wish a new Confederation?

Mr. LANSING. I move that the word "not" be struck out of the resolve, and then the question will stand on its proper ground; and the resolution will read thus: that the representation of the first branch be according to the Articles of the Confederation; and the sense of the Convention on this point will determine the question of a federal or national government.

Mr. MADISON. I am against the motion. I confess the necessity of harmonizing; and if it could be shown that

the system is unjust or unsafe, I would be against it. There has been much fallacy in the argument advanced by the gentleman from Maryland. He has, without adverting to many manifest distinctions, considered confederacies and treaties as standing on the same basis. In the one, the powers act collectively, in the other individually. Suppose, for example, that France, Spain, and some of the smaller states in Europe, should treat on war or peace, or on any other general concern; it would be done on principles of equality. But if they were to form a plan of general government, would they give, or are the greater states obliged to give to the lesser, the same and equal legislative powers? Surely not. They might differ on this point, but no one can say that the large states were wrong in refusing this concession. Nor can the gentleman's reasoning apply to the present powers of Congress; for they may, and do, in some cases, affect property — and in case of war, the lives of the citizens. Can any of the lesser states be endangered by an adequate representation? Where is the probability of a combination? What the inducements? Where is the similarity of customs, manners, or religion? If there possibly can be a diversity of interest, it is the case of the three large states. Their situation is remote, their trade different. The staple of Massachusetts is fish, and the carrying trade; of Pennsylvania, wheat and flour; of Virginia, tobacco. Can states thus situated in trade ever form such a combination? Do we find those combinations in the larger counties in the different state governments to produce rivalships? Does not the history of the nations of the earth verify it? Rome rivalled Carthage, and could not be satisfied before she was destroyed. The houses of Austria and Bourbon acted on the same view; and the wars of France and England have been waged through rivalship; and let me add, that we, in a great measure, owe our independency to those national contending passions. France, through this motive, joined us. She might, perhaps, with less expense, have induced England to divide America between them. In Greece, the contention was ever between the larger states. Sparta against Athens — and these again, occasionally, against Thebes, — were ready to devour each other. Germany presents the same prospects — Prussia against Austria. Do the greater provinces in Holland endanger the liberties of the lesser? And

let me remark, that the weaker you make your confederation, the greater the danger to the lesser states. They can only be protected by a strong federal government. Those gentlemen who oppose the Virginia plan do not sufficiently analyze the subject. Their remarks, in general, are vague and inconclusive.

Capt. DAYTON. On the discussion of this question the fate of the state governments depends.

Mr. WILLIAMSON. If any argument will admit of demonstration, it is that which declares that all men have an equal right in society. Against this position, I have heard, as yet, no argument; and I could wish to hear what could be said against it. What is tyranny? Representatives of representatives, if you give them the power of taxation. From equals take equals, and the remainder is equal. What process is to annihilate smaller states, I know not. But I know it must be tyranny, if the smaller states can tax the greater, in order to ease themselves. A general government cannot exercise direct taxation. Money must be raised by duties and imposts, &c., and this will operate equally. It is impossible to tax according to numbers. Can a man over the mountains, where produce is a drug, pay equal with one near the shore?

Mr. WILSON. I should be glad to hear the gentleman from Maryland explain himself upon the remark on Old Sarum, when compared with the city of London. He has allowed this to be an unjust proportion; as in the one place one man sends two members, and in the other one million are represented by four members. I would be glad to hear how he applies this to the larger and smaller states in America; and whether the borough, as a borough, is represented, or the people of the borough.

Mr. MARTIN rose to explain. Individuals, as composing a part of the whole of one consolidated government, are there represented.

The further consideration of the question was postponed.

Mr. SHERMAN. In society, the poor are equal to the rich in voting, although one pays more than the other. This arises from an equal distribution of liberty amongst all ranks; and it is, on the same grounds, secured to the states in Confederation; for this would not even trust the important powers to a majority of the states. Congress has too many



checks, and their powers are too limited. A gentleman from New York thinks a limited monarchy the best government, and no state distinctions. The plan now before us gives the power to four states to govern nine states. As they will have the purse, they may raise troops, and can also make a king when they please.

Mr. MADISON. There is danger in the idea of the gentleman from Connecticut. Unjust representation will ever produce it. In the United Netherlands, Holland governs the whole, although she has only one vote. The counties in Virginia are exceedingly disproportionate, and yet the smaller has an equal vote with the greater, and no inconvenience arises.

Gov. FRANKLIN read some remarks acknowledging the difficulties of the present subject. Neither ancient nor modern history (said Gov. Franklin) can give us light. As a sparrow does not fall without divine permission, can we suppose that governments can be erected without his will? We shall, I am afraid, be disgraced, through little party views. I move *that we have prayers every morning.*

Adjourned till to-morrow morning.

FRIDAY, June 29, 1787.

Met pursuant to adjournment. Present, eleven states.

Dr. JOHNSON. As the debates have hitherto been managed, they may be spun out to an endless length; and as gentlemen argue on different grounds, they are equally conclusive on the points they advance, but afford no demonstration either way. States are political societies. For whom are we to form a government? for the people of America, or for those societies? Undoubtedly for the latter. They must, therefore, have a voice in the second branch of the general government, if you mean to preserve their existence. The people already compose the first branch. This mixture is proper and necessary; for we cannot form a general government on any other ground.

Mr. GORHAM. I perceive no difficulty in supposing a union of interest in the different states. Massachusetts formerly consisted of three distinct provinces. They have been united into one, and we do not find the least trace of party distinctions arising from their former separation. Thus it is that the interest of the smaller states will unite in a

general government. It is thus they will be supported. Jersey, in particular, situated between Philadelphia and New York, can never become a commercial state. It would be her interest to be divided, and part annexed to New York and part to Pennsylvania—or otherwise the whole to the general government. Massachusetts cannot long remain a large state. The province of Maine must soon become independent of her. Pennsylvania can never become a dangerous state. Her western country must at some period become separated from her, and consequently her power will be diminished. If some states will not confederate on a new plan, I will remain here, if only one state will consent to confederate with us.

Judge ELLSWORTH. I do not despair but that we shall be so fortunate as to devise and adopt some good plan of government.

Judge READ. I would have no objection, if the government was more national; but the proposed plan is so great a mixture of both, that it is best to drop it altogether. A state government is incompatible with a general government. If it was more national, I would be for a representation proportionate to population. The plan of the gentleman from New York is certainly the best; but the great evil is the unjust appropriation of the public lands. If there was but one national government, we would be all equally interested.

Mr. MADISON. Some gentlemen are afraid that the plan is not sufficiently national, while others, that it is too much so. If this point of representation was once well fixed, we would come nearer to one another in sentiment. The necessity would then be discovered of circumscribing more effectually the state governments, and enlarging the bounds of the general government. Some contend that states are sovereign, when in fact they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The states never possessed the essential rights of sovereignty. These were always vested in Congress. Their voting, as states, in Congress, is no evidence of sovereignty. The state of Maryland voted by counties. Did this make the counties sovereign? The states, at present, are only great corporations, having the power of making by-laws, and these are effectual only if they are not contradictory to the general Confederation

The states ought to be placed under control of the general government—at least as much so as they formerly were under the king and British Parliament. The arguments, I observe, have taken a different turn, and I hope may tend to convince all of the necessity of a strong energetic government, which would equally tend to give energy to and protect the state governments. What was the origin of the military establishment of Europe? It was the jealousy which one state or kingdom entertained of another. This jealousy was productive of evil. In Rome, the patricians were often obliged to excite a foreign war, to divert the attention of the plebeians from encroaching on the senatorial rights. In England and France, perhaps this jealousy may give energy to their governments, and contribute to their existence. But a state of danger is like a state of war, and it unites the various parts of the government to exertion. May not our distractions, however, invite danger from abroad? If the power is not immediately derived from the people, in proportion to their numbers, we may make a paper confederacy, but that will be all. We know the effects of the old Confederation, and without a general government this will be like the former.

Mr. HAMILTON. The course of my experience in human affairs might perhaps restrain me from saying much on this subject. I shall, however, give birth to some of the observations I have made during the course of this debate. The gentleman from Maryland has been at great pains to establish positions which are not denied. Many of them, as drawn from the best writers on government, are become almost self-evident principles. But I doubt the propriety of his application of those principles in the present discussion. He deduces from them the necessity that states entering into a confederacy must retain the equality of votes. This position cannot be correct. Facts plainly contradict it. The Parliament of Great Britain asserted a supremacy over the whole empire; and the celebrated Judge Blackstone labors for the legality of it, although many parts were not represented. This parliamentary power we opposed as contrary to our colonial rights. With that exception, throughout that whole empire, it is submitted to. May not the smaller and greater states so modify their respective rights as to establish the general interest of the whole, without adhering to the right of equality? Strict representation is not observed in

any of the state governments. The Senate of New York are chosen by persons of certain qualifications, to the exclusion of others. The question, after all, is, Is it our interest, in modifying this general government, to sacrifice individual rights to the preservation of the rights of an artificial being, called *states*? There can be no truer principle than this — that every individual of the community at large has an equal right to the protection of government. If, therefore, three states contain a majority of the inhabitants of America; ought they to be governed by a minority? Would the inhabitants of the great states ever submit to this? If the smaller states maintain this principle, through a love of power, will not the larger, from the same motive, be equally tenacious to preserve their power? They are to surrender their rights: for what? — for the preservation of an artificial being. We propose a free government. Can it be so if partial distinctions are maintained? I agree with the gentleman from Delaware that, if the state governments are to act in the general government, it affords the strongest reason for exclusion. In the state of New York, five counties form a majority of representatives, and yet the government is in no danger, because the laws have a general operation. The small states exaggerate their danger, and on this ground contend for an unproportion of power. But their danger is increased if the larger states will not submit to it. Where will they form new alliances for their support? Will they do this with foreign powers? Foreigners are jealous of our increasing greatness, and would rejoice in our distractions. Those who have had opportunities of conversing with foreigners respecting sovereigns in Europe, have discovered in them an anxiety for the preservation of our democratic governments, probably for no other reason but to keep us weak. Unless your government is respectable, foreigners will invade your rights; and to maintain tranquillity you must be respectable; even to observe neutrality you must have a strong government. I confess our present situation is critical. We have just finished a war which has established our independency, and loaded us with a heavy debt. We have still every motive to unite for our common defence. Our people are disposed to have a good government; but this disposition may not always prevail. It is difficult to amend confederations. It has been attempted in vain, and it is perhaps



a miracle that we are now met. We must therefore improve the opportunity, and render the present system as perfect as possible. Their good sense, and, above all, the necessity of their affairs, will induce the people to adopt it.

Mr. PIERCE. The great difficulty in Congress arose from the mode of voting. Members spoke on the floor as state advocates, and were biased by local advantages. What is federal? No more than a compact between states, and the one heretofore formed is insufficient. We are now met to remedy its defects, and our difficulties are great, but not, I hope, insurmountable. State distinctions must be sacrificed so far as the general government shall render it necessary — without, however, destroying them altogether. Although I am here a representative from a small state, I consider myself as a citizen of the United States, whose general interests I will always support.

Mr. GERRY. It appears to me that the states never were independent; they had only corporate rights. Confederations are a mongrel kind of government, and the world does not afford a precedent to go by. Aristocracy is the worst kind of government, and I would sooner submit to a monarchy. We must have a system that will execute itself.

The question was then put on Mr. Lansing's motion, and lost — 4 ayes, 6 noes, 1 state divided.

Question on the clause — 6 ayes, 4 noes, and 1 state divided.

Judge ELLSWORTH. I move that the consideration of the 8th resolve be postponed. Carried — 9 ayes, 2 noes.

I now move the following amendment to the resolve — that, in the second branch, each state have an equal vote. I confess that the effect of this motion is, to make the general government partly federal and partly national. This will secure tranquillity, and still make it efficient; and it will meet the objections of the larger states. In taxes they will have a proportional weight in the first branch of the general legislature. If the great states refuse this plan, we will be forever separated. Even in the executive the larger states have ever had influence. The province of Holland ever had it. If all the states are to exist, they must necessarily have an equal vote in the general government. Small communities, when associating with greater, can only be supported

by an equality of votes. I have always found, in my reading and experience, that in all societies the governors are ever gradually rising into power.

The large states, although they may not have a common interest for combination, yet they may be partially attached to each other for mutual support and advancement. This can be more easily effected than the union of the remaining small states to check it; and ought we not to regard antecedent plighted faith to the Confederation already entered into, and by the terms of it declared to be perpetual? And it is not yet obvious to me that the states will depart from this ground. When in the hour of common danger we united as equals, shall it now be urged by some that we must depart from this principle when the danger is over? Will the world say that this is just? We then associated as free and independent states, and were well satisfied. To perpetuate that independence, I wish to establish a national legislature, executive, and judiciary; for under these we shall, I doubt not, preserve peace and harmony. Nor would I be surprised (although we made the general government the most perfect, in our opinion) that it should hereafter require amendment. But at present this is as far as I possibly can go. If this Convention only chalk out lines of good government, we shall do well.

Mr. BALDWIN. It appears to be agreed that the government we should adopt ought to be energetic and formidable; yet I would guard against the danger of being too formidable. The second branch ought not to be elected as the first. Suppose we take the example of the Constitution of Massachusetts, as it is commended for its goodness. There the first branch represents the people, and the second its property.

Mr. MADISON: I would always exclude inconsistent principles in framing a system of government. The difficulty of getting its defects amended are great, and sometimes insurmountable. The Virginia state government was the first which was made; and though its defects are evident to every person, we cannot get it amended. The Dutch have made four several attempts to amend their system, without success. The few alterations made in it were by tumult and faction, and for the worse. If there was real danger, I would give the smaller states the defensive weapons. But there is none from that quarter. The great danger to our

genera government is the great southern and northern interest of the continent being opposed to each other. Look to the votes in Congress, and most of them stand divided by the geography of the country, not according to the size of the states.

Suppose the first branch granted money; may not the second branch, from state views, counteract the first? In Congress, the single state of Delaware prevented an embargo, at the time that all the other states thought it absolutely necessary for the support of the army. Other powers, and those very essential, besides the legislative, will be given to the second branch — such as the negating all state laws. I would compromise on this question, if I could do it on correct principles, but otherwise not. If the old fabric of the Confederation must be the groundwork of the new, we must fail.

Adjourned till to-morrow morning.

SATURDAY, *June 30, 1787.*

Met pursuant to adjournment. Present, eleven states.

Judge BREARLY moved that the president be directed to write to the executive of New Hampshire, requesting the attendance of its delegates.

Negatived — 2 ayes, 5 noes, 1 state divided.

The discussion of yesterday resumed.

Mr. WILSON. The question now before us is of so much consequence that I cannot give it a silent vote. Gentlemen have said that, if this amendment is not agreed to, a separation to the north of Pennsylvania may be the consequence. This staggers me neither in my sentiments nor my duty. If a minority should refuse their assent to the new plan of a general government, and if they will have their own will, and without it separate the Union, let it be done; but we shall stand supported by stronger and better principles. The opposition to this plan is as 22 to 90, in the general scale — not quite a fourth part of the Union. Shall three fourths of the Union surrender their rights for the support of that artificial being, called *state interest*? If we must join issue, I am willing. I cannot consent that one fourth shall control the power of three fourths.

If the motion is adopted, seven states will control the whole, and the lesser seven compose 24 out of 90. One

third must control two thirds — 24 overrule 66. For whom do we form a Constitution? For men, or for imaginary beings, called states—a mere metaphysical distinction? Will a regard to state rights justify the sacrifice of the rights of men? If we proceed on any other foundation than the last our building will neither be solid nor lasting. Weight and numbers is the only true principle: every other is local, confined, or imaginary. Much has been said of the danger of the three larger states combining together to give rise to monarchy or an aristocracy. Let the probability of this combination be explained, and it will be found that a rivalry, rather than a confederacy, will exist among them. Is there a single point in which this interest coincides? Supposing that the executive should be selected from one of the larger states; can the other two be gratified? Will not this be a source of jealousy amongst them; and will they not separately court the interest of the smaller states, to counteract the views of a favorite rival? How can aristocracy arise from this combination, more than amongst the smaller states? On the contrary, the present claims of the smaller states lead directly to the establishment of an aristocracy, which is the government of the few over the many; and the Connecticut proposal removes only a small part of the objection. There are only two kinds of bad government—the one, which does *too much*, and therefore oppressive, and the other, which does *too little*, and therefore weak. Congress partakes of the latter, and the motion will leave us in the same situation, and as much fettered as ever we were. The people see its weakness, and would be mortified in seeing our inability to correct it.

The gentleman from Georgia has his doubts how to vote on this question, and wishes some qualification of it to be made. I admit there ought to be some difference as to the numbers in the second branch; and perhaps there are other distinctions which could, with propriety, be introduced; such, for example, as the qualifications of the elected, &c. However, if there are leading principles in the system which we adopt, much may be done in the detail. We all aim at giving the general government more energy. The state governments are necessary and valuable. No liberty can be obtained without them. On this question depend the essential rights of the general government and of the people.



Judge ELLSWORTH. I have the greatest respect for the gentleman who spoke last. I respect his abilities, although I differ from him on many points. He asserts that the general government must depend on the equal suffrage of the people. But will this not put it in the power of the few states to control the rest? It is a novel thing in politics that the few control the many. In the British government, the few, as a guard, have an equal share in the government. The House of Lords, although few in number, and sitting in their own right, have an equal share in the legislature. They cannot give away the property of the community, but they can prevent the Commons from being too lavish in their gifts. Where is, or was, a confederation ever formed, where equality of voices was not a fundamental principle? Mankind are apt to go from one extreme to another; and because we have found defects in the Confederation, must we therefore pull down the whole fabric, foundation and all, in order to erect a new building, totally different from it, without retaining any of its materials? What are its defects? It is said equality of votes has embarrassed us. But how? Would the real evils of our situation have been cured, had this not been the case? Would the proposed amendment on the Virginia plan, as to representation, have relieved us? I fancy not. Rhode Island has been often quoted as a small state, and by its refusal once defeated the grant of the impost. Whether she was right in doing so, is not the question; but was it a federal requisition? And if it was not, she did not, in this instance, defeat a federal measure.

If the larger states seek security, they have it fully in the first branch of the general government. But can we turn the tables, and say that the lesser states are equally secure? In *commercial regulations* they will unite. If policy should require free ports, they would be found at Boston, Philadelphia, and Alexandria. In the disposition of lucrative offices they would unite. But I ask no surrender of any of the rights of the great states; nor do I plead *duress* in the makers of the old Confederation, nor suppose they soothed the danger, in order to resume their rights when the danger was over. No; small states must possess the power of self-defence, or be ruined. Will any one say there is no diversity of interests in the states? And if there is, should not those interests be guarded and secured? But if there is

none, then the large states have nothing to apprehend from an equality of rights. And let it be remembered, that these remarks are not the result of partial or local views. The state I represent is respectable, and in importance holds a middle rank.

Mr. MADISON. Notwithstanding the admirable and close reasoning of the gentleman who spoke last, I am not yet convinced that my former remarks are not well founded. I apprehend that he is mistaken as to the fact on which he builds one of his arguments. He supposes that equality of votes is the principle on which all confederacies are formed. That of Lycia, so justly applauded by the celebrated Montesquieu, was different. He also appeals to our good faith for the observance of the confederacy. We know we have found one inadequate to the purposes for which it was made. Why then adhere to a system which is proved to be so remarkably defective? I have impeached a number of states for the infraction of the Confederation; and I have not even spared my own state, nor can I justly spare his. Did not Connecticut refuse her compliance to the federal requisition? Has she paid, for the two last years, any money into the Continental treasury? And does this look like government, or the observance of a solemn compact? Experience shows that the Confederation is radically defective; and we must, in a new national government, guard against those defects. Although the large states in the first branch have weight proportionate to their population, yet, as the smaller states have an equal vote in the second branch, they will be able to control and leave the larger without any essential benefit. As peculiar powers are intended to be granted to the second branch, such as the negating state laws, &c., unless the larger states have a proportionate weight in the representation, they cannot be more secure.

Judge ELLSWORTH. My state has always been strictly federal, — and I can with confidence appeal to your excellency [the president] for the truth of it during the war. The muster-rolls will show that she had more troops in the field than even the state of Virginia. We strained every nerve to raise them; and we spared neither money nor exertions to complete our quotas. This extraordinary exertion has greatly distressed and impoverished us, and it has accumulated our state debts. We feel the effects of it even

to this day. But we defy any gentleman to show that we ever refused a federal requisition. We are constantly exerting ourselves to draw money from the pockets of our citizens, as fast as it comes in; and it is the ardent wish of the state to strengthen the federal government. If she has proved delinquent through inability only, it is not more than others have been, without the same excuse.

Mr. SHERMAN. I acknowledge there have been failures in complying with the federal requisition. Many states have been defective, and the object of our Convention is to amend these defects.

Col. DAVIE. I have great objection to the Virginia plan as to the manner the second branch is to be formed. It is impracticable. The number may, in time, amount to two or three hundred. This body is too large for the purposes for which we intend to constitute it. I shall vote for the amendment. Some intend a compromise. This has been hinted by a member from Pennsylvania, but it still has its difficulties. The members will have their local prejudices. The preservation of the state societies must be the object of the general government. It has been asserted that we were one in war, and one in peace. Such we were as states; but every treaty must be the law of the land as it affects individuals. The formation of the second branch, as it is intended by the motion, is also objectionable. We are going the same round with the old Confederation. No plan yet presents sufficient checks to a tumultuary assembly; and there is none, therefore, which yet satisfies me.

Mr. WILSON. On the present motion it was not proper to propose another plan. I think the second branch ought not to be numerous. I will propose an expedient: Let there be one member for every 100,000 souls, and the smallest states not less than one member each. This would give about twenty-six members. I make this proposal, not because I belong to a large state, but in order to pull down a rotten house, and lay a foundation for a new building. To give additional weight to an old building is to hasten its ruin.

Gov. FRANKLIN. The smaller states, by this motion, would have the power of giving away the money of the greater states. There ought to be some difference between the first and second branches. Many expedients have been proposed, and, I am sorry to remark, without effect. A joiner,

when he wants to fit two boards, takes off with his plane the uneven parts from each side, and thus they fit. Let us do the same. We are all met to do something.

I shall propose an expedient: Let the Senate be elected by the states equally; in all acts of sovereignty and authority, let the votes be equally taken—the same in the appointment of all officers, and salaries; but in passing of laws, each state shall have a right of suffrage in proportion to the sums they respectively contribute. Amongst merchants, where a ship has many owners, her destination is determined in that proportion. I have been one of the ministers to France from this country during the war, and we should have been very glad, if they would have permitted us a vote in the distribution of the money to carry on the war.

Mr. MARTIN. Mr. Wilson's motion or plan would amount to nearly the same kind of inequality.

Mr. KING. The Connecticut motion contains all the vices of the old Confederation. It supposes an imaginary evil—the slavery of the state governments. And should this Convention adopt the motion, our business here is at an end.

Capt. DAYTON. Declamation has been substituted for argument. Have gentlemen shown, or must we believe it because it is said, that one of the evils of the old Confederation was unequal representation? We, as distinct societies, entered into the compact. Will you now undermine the thirteen pillars that support it?

Mr. MARTIN. If we cannot confederate on just principles, I will never confederate in any other manner.

Mr. MADISON. I will not answer for supporting chimerical objects; but has experience evinced any good in the old Confederation? I know it never can answer, and I have therefore made use of bold language against it. I do assert that a national Senate, elected and paid by the people, will have no more efficiency than Congress; for the states will usurp the general government. I mean, however, to preserve the state rights with the same care as I would trials by jury; and I am willing to go as far as my honorable colleague

Mr. BEDFORD. That all the states at present are equally sovereign and independent, has been asserted from every quarter of this house. Our deliberations here are a confirmation of the position; and I may add to it, that each



of them acts from interested, and many from ambitious motives. Look at the votes which have been given on the floor of this house, and it will be found that their numbers, wealth, and local views, have actuated their determinations; and that the larger states proceed as if our eyes were already perfectly blinded. Impartiality, with them, is already out of the question; the reported plan is their political creed, and they support it, right or wrong. Even the diminutive state of Georgia has an eye to her future wealth and greatness. South Carolina, puffed up with the possession of her wealth and negroes, and North Carolina, are all, from different views, united with the great states. And these latter, although it is said they can never, from interested views, form a coalition, we find closely united in one scheme of interest and ambition, (notwithstanding they endeavor to amuse us with the purity of their principle and the rectitude of their intentions,) in asserting that the general government must be drawn from an equal representation of the people. Pretences to support ambition are never wanting. Their cry is, Where is the danger? and they insist that although the powers of the general government will be increased, yet it will be for the good of the whole; and although the three great states form nearly a majority of the people of America, they never will hurt or injure the lesser states. *I do not, gentlemen, trust you.* If you possess the power, the abuse of it could not be checked; and what then would prevent you from exercising it to our destruction? You gravely allege that there is no danger of combination, and triumphantly ask, "How could combinations be effected? The large states," you say, "all differ in productions and commerce; and experience shows that, instead of combinations, they would be rivals, and counteract the views of one another." This, I repeat, is language calculated only to amuse us. Yes, sir, the larger states will be rivals, but not against each other—they will be rivals against the *rest of the states*. But it is urged that such a government would suit the people, and that its principles are equitable and just. How often has this argument been refuted, when applied to a *federal* government! The small states never can agree to the Virginia plan; and why, then, is it still urged? But it is said that it is not expected that the state governments will approve the proposed system, and that this house

must directly carry it to THE PEOPLE for their approbation! Is it come to this, then, that *the sword* must decide this controversy, and that the horrors of war must be added to the rest of our misfortunes? But what have the people already said? "We find the Confederation defective. Go, and give additional powers to the Confederation — give to it the imposts, regulation of trade, power to collect the taxes, and the means to discharge our foreign and domestic debts."

Can we not, then, as their delegates, agree upon these points? As their ambassadors, can we not clearly grant those powers? Why, then, when we are met, must entire distinct and new grounds be taken, and a government of which the people had no idea be instituted? And are we to be told, if we won't agree to it, it is the last moment of our deliberations? I say, it is indeed the last moment, if we do not agree to this assumption of power. The states will never again be entrapped into a measure like this. The people will say, The *small* states would confederate, and grant further powers to Congress; but you, the *large* states, would not. Then the fault would be yours, and all the nations of the earth will justify us. But what is to become of our public debts, if we dissolve the Union? Where is your plighted faith? Will you crush the smaller states, or must they be left unmolested? Sooner than be ruined, there are *foreign powers who will take us by the hand*.

I say not this to threaten or intimidate, but that we should reflect seriously before we act. If we once leave this floor, and solemnly renounce your new project, what will be the consequence? You will annihilate your federal government, and ruin must stare you in the face. Let us, then, do what is in our power — *amend and enlarge the Confederation, but not alter the federal system*. The people expect this, and no more. We all agree in the necessity of a more efficient government — and cannot this be done? Although my state is small, I know and respect its rights, as much, at least, as those who have the honor to represent any of the larger states.

Judge ELLSWORTH. I am asked by my honorable friend from Massachusetts, whether, by entering into a national government, I will not equally participate in national security. I confess I should; but I want domestic happiness, as well as general security. A general government will

never grant me this, as it cannot know my wants or relieve my distress. My state is only as one out of thirteen. Can they, the general government, gratify my wishes? My happiness depends as much on the existence of my state government, as a new-born infant depends upon its mother for nourishment. If this is not an answer, I have no other to give.

Mr. KING. I am in sentiment with those who wish the preservation of state governments; but the general government may be so constituted as to effect it. Let the Constitution we are about forming be considered as a *commission* under which the general government shall act, and as such it will be the guardian of the state rights. The rights of Scotland are secure from all danger and encroachments, although in the Parliament she has a small representation. May not this be done in our general government? Since I am up, I am concerned for what fell from the gentleman from Delaware — “*Take a foreign power by the hand!*” I am sorry he mentioned it, and I hope he is able to excuse it to himself on the score of passion. Whatever may be my distress, I never will court a foreign power to assist in relieving myself from it.

Adjourned till Monday next.

MONDAY, July 2, 1787.

Met pursuant to adjournment. Present, eleven states.

The question was then put on Mr. Ellsworth's motion — 5 ayes, 5 noes, 1 state divided. So the question, as to the amendment, was lost.

Mr. PINCKNEY. As a professional man, I might say that there is no weight in the argument adduced in favor of the motion on which we are divided; but candor obliges me to own that equality of suffrage in the states is wrong. Prejudices will prevail, and they have an equal weight in the larger as in the smaller states. There is a solid distinction, as to interest, between the Southern and Northern States. To destroy the ill effects thereof, I renew the motion which I made in the early stage of this business. [See the plan, page 145.]

Gen. PINCKNEY moved for a select committee, to take into consideration both branches of the legislature.

Mr. MARTIN. It is again attempted to compromise

You must give each state an equal suffrage, or our business is at an end.

Mr. SHERMAN. It seems we have got to a point, that we cannot move one way or the other. Such a committee is necessary, to set us right.

Mr. MORRIS. The two branches, so equally poised cannot have their due weight. It is confessed, on all hands that the second branch ought to be a check on the first; for without its having this effect, it is perfectly useless. The first branch, originating from the people, will ever be subject to *precipitancy, changeability, and excess*. Experience evinces the truth of this remark, without having recourse to reading. This can only be checked by *ability and virtue* in the second branch. On your present system, can you suppose that one branch will possess it more than the other? The second branch ought to be composed of men of great and established property — *aristocracy*; men who, from pride, will support consistency and permanency; and to make them completely independent, they must be chosen *for life*, or they will be a useless body. Such an aristocratic body will keep down the turbulency of democracy. But if you elect them for a shorter period, they will be only a name, and we had better be without them. Thus constituted, I hope they will show us the weight of aristocracy.

History proves, I admit, that the men of large property will uniformly endeavor to establish tyranny. How, then, shall we ward off this evil? Give them the second branch, and you secure their weight for the public good. They become responsible for their conduct, and this lust of power will ever be checked by the democratic branch, and thus form a stability in your government. But if we continue changing our measures by the breadth of democracy, who will confide in our engagements? Who will trust us? Ask any person whether he reposes any confidence in the government of Congress, or that of the state of Pennsylvania, he will readily answer you, No. Ask him the reason, and he will tell you, it is because he has no confidence in their stability.

You intend also that the second branch shall be incapable of holding any office in the general government. It is a dangerous expedient. They ought to have every inducement to be interested in your government. Deprive them of this



right, and they will become inattentive to your welfare. The wealthy will ever exist; and you never can be safe unless you gratify them, as a body, in the pursuit of honor and profit. Prevent them by positive institutions, and they will proceed in some left-handed way. A son may want a place — you mean to prevent him from promotion. They are not to be paid for their services; they will in some way pay themselves; nor is it in your power to prevent it. It is good policy that men of property be collected in one body, to give them one common influence in your government. Let vacancies be filled up, as they happen, by the executive. Besides, it is of little consequence, on this plan, whether the states are equally represented or not. If the state governments have the division of many of the loaves and fishes, and the general government few, it cannot exist. This Senate would be one of the *baubles* of the general government. If you choose them for *seven* years, whether chosen by the people or the states, whether by equal suffrage or in any other proportion, how will they be a check? They will still have local and state prejudices. A government by compact is no government at all. You may as well go back to your congressional federal government, where, in the character of ambassadors, they may form treaties for each state.

I avow myself the advocate of a strong government; still I admit that the influence of the rich must be guarded; and a pure democracy is equally oppressive to the lower orders of the community. This remark is founded on the experience of history. We are a commercial people, and as such will be obliged to engage in European politics. Local government cannot apply to the general government. These latter remarks I throw out only for the consideration of the committee who are to be appointed.

Gov. RANDOLPH. I am in favor of appointing a committee; but, considering the warmth exhibited in debate on Saturday, I have, I confess, no great hopes that any good will arise from it. Cannot a remedy be devised? If there is danger to the lesser states, from an unequal representation in the second branch, may not a check be found in the appointment of one executive, by electing him by an equality of state votes? He must have the right of interposing between the two branches, and this might give a reasonable security to the smaller states. Not one of the lesser states

can exist by itself; and a dissolution of the Confederation, I confess, would produce contentions as well in the larger as in the smaller states. The principle of self-preservation induces me to seek for a government that will be stable and secure.

Mr. STRONG moved to refer the 7th resolve to the same committee.

Mr. WILSON. I do not approve of the motion for a committee. I also object to the mode of its appointment — a small committee is the best.

Mr. LANSING. I shall not oppose the appointment, but I expect no good from it.

Mr. MADISON. I have observed that committees only delay business; and if you appoint one from each state, we shall have in it the whole force of state prejudices. The great difficulty is to conquer former opinions. The motion of the gentleman from South Carolina can be as well decided here as in committee.

Mr. GERRY. The world at large expect something from us. If we do nothing, it appears to me we must have war and confusion; for the old Confederation would be at an end. Let us see if no concession can be made. Accommodation is absolutely necessary, and defects may be amended by a future convention.

The motion was then put to appoint a committee on the 8th resolve, and so much of the 7th as was not agreed to. Carried — 9 states against 2.

And, *by ballot*, the following members were appointed:—

<i>Massachusetts</i> , . . . Mr. Gerry.	<i>Maryland</i> , . . . . . Mr. Martin.
<i>Connecticut</i> , . . . . Mr. Ellsworth.	<i>Virginia</i> , . . . . . Mr. Mason.
<i>New York</i> , . . . . . Mr. Yates.	<i>North Carolina</i> , . . Mr. Davie.
<i>New Jersey</i> , . . . . Mr. Patterson.	<i>South Carolina</i> , . . Mr. Rutledge.
<i>Pennsylvania</i> , . . . Mr. Franklin.	<i>Georgia</i> , . . . . . Mr. Baldwin.
<i>Delaware</i> , . . . . . Mr. Bedford.	

The Convention then adjourned to Thursday, the 5th of July.

TUESDAY, July 3, 1787.

The *grand committee* met. Mr. Gerry was chosen chairman.

The committee proceeded to consider in what manner they should discharge the business with which they were intrusted. By the proceedings in the Convention, they were

so equally divided on the important question of *representation in the two branches*, that the idea of a conciliatory adjustment must have been in contemplation of the house in the appointment of this committee. But still, how to effect this salutary purpose was the question. Many of the members, impressed with the utility of a general government, connected with it the indispensable necessity of a representation from the states *according to their numbers and wealth*; while others, equally tenacious of the rights of the states, would admit of no other representation but such as *was strictly federal*, or, in other words, *equality of suffrage*. This brought on a discussion of the principles on which the house had divided, and a lengthy recapitulation of the arguments advanced in the house in support of these opposite propositions. As I had not openly explained my sentiments on any former occasion on this question, but constantly, in giving my vote, *showed my attachment to the national government on federal principles*, I took this occasion to explain my motives.

These remarks gave rise to a motion of Dr. Franklin, which, after some modification, was agreed to, and made the basis of the following report of the committee:—

“The committee to whom was referred the 8th resolution reported from the committee of the whole house, and so much of the 7th as had not been decided on, submit the following report:—

“That the subsequent propositions be recommended to the Convention, on condition that both shall be generally adopted.

“That, in the first branch of the legislature, each of the states now in the Union be allowed one member for every 40,000 inhabitants of the description reported in the 7th resolution of the committee of the whole house. That each state, not containing that number, shall be allowed one member.

“That bills for raising or apportioning money, and for fixing salaries of the officers of government of the United States, shall originate in the first branch of the legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated in the first branch.

“That, in the second branch of the legislature, *each state shall have an equal vote.*”

THURSDAY, July 5, 1787.

Met pursuant to adjournment. The report of the committee was read.

Mr. GORHAM. I call for an explanation of the principles on which it is grounded.

Mr. GERRY, the chairman, explained the principles.

Mr. MARTIN. The one representation is proposed as an expedient for the adoption of the other.

Mr. WILSON. The committee have exceeded their powers.

Mr. MARTIN proposed to take the question on the whole of the report.

Mr. WILSON. I do not choose to take a leap in the dark. I have a right to call for a division of the question on each distinct proposition.

Mr. MADISON. I restrain myself from animadverting on the report, from the respect I bear to the members of the committee. I must confess I see nothing of concession in it.

The originating money bills is no concession on the part of the smaller states; for, if seven states in the second branch should want such a bill, their interest in the first branch will prevail to bring it forward. It is nothing more than a nominal privilege.

The second branch, small in number, and well connected, will ever prevail. The power of regulating trade, imposts, treaties, &c., are more essential to the community than raising money, and no provision is made for those in the report. We are driven to an unhappy dilemma. Two thirds of the inhabitants of the Union are to please the remaining one third by sacrificing their essential rights.

When we satisfy the majority of the people in securing their rights, we have *nothing* to fear; in any other way, *every thing*. The smaller states, I hope, will at last see their true and real interest; and I hope that the warmth of the gentleman from Delaware will never induce him to yield to his own suggestion of seeking for foreign aid.

[At this period (July 5, 1787) Messrs. Yates and Lansing left the Convention, and the remainder of the session was employed to complete the Constitution, on the principles already adopted.]



LETTER FROM THE HON. ROBERT YATES AND THE  
HON. JOHN LANSING, JUN., ESQUIRES,

TO THE GOVERNOR OF NEW YORK;

CONTAINING THEIR REASONS FOR NOT SUBSCRIBING  
TO THE FEDERAL CONSTITUTION.

SIR: We do ourselves the honor to advise your excellency that, in pursuance to concurrent resolutions of the honorable Senate and Assembly, we have, together with Mr. Hamilton, attended the Convention appointed for revising the Articles of Confederation, and reporting amendments to the same.

It is with the sincerest concern we observe that, in the prosecution of the important objects of our mission, we have been reduced to the disagreeable alternative of either exceeding the powers delegated to us, and giving assent to measures which we conceive destructive to the political happiness of the citizens of the United States, or opposing our opinions to that of a body of respectable men, to whom those citizens had given the most unequivocal proofs of confidence. Thus circumstanced, under these impressions, to have hesitated would have been to be culpable. We therefore gave the principles of the Constitution, which has received the sanction of a majority of the Convention, our decided and unreserved dissent; but we must candidly confess that we should have been equally opposed to any system, however modified, which had in object the consolidation of the United States into one government.

We beg leave, briefly, to state some cogent reasons, which, among others, influenced us to decide against a consolidation of the states. These are reducible into two heads: —

1st. The limited and well-defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude as to assent to a general Constitution, in subversion of that of the state.

2d. A conviction of the impracticability of establishing a general government, pervading every part of the United States, and extending essential benefits to all.

Our powers were explicit, and confined to the sole and express purpose of revising the Articles of Confederation, and reporting such alterations and provisions therein as should render the Federal Constitution adequate to the exigencies of government and the preservation of the Union.

From these expressions, we were led to believe that a system of consolidated government could not, in the remotest degree, have been in contemplation of the legislature of this state; for that so important a trust as the adopting measures which tended to deprive the state government of its most essential rights of sovereignty, and to place it in a dependent situation, could not have been confided by implication; and the circumstance, that the acts of the Convention were to receive a state approbation in the last resort, forcibly corroborated the opinion that our powers could not involve the subversion of a Constitution which, being immediately derived from the people, could only be abolished by their express

consent, and not by a legislature possessing authority vested in them for its preservation. Nor could we suppose that, if it had been the intention of the legislature to abrogate the existing Confederation, they would, in such pointed terms, have directed the attention of their delegates to the revision and amendment of it, in total exclusion of every other idea.

Reasoning in this manner, we were of opinion that the leading feature of every amendment ought to be the preservation of the individual states in their uncontrolled constitutional rights; and that, in reserving these, a mode might have been devised of granting to the Confederacy the moneys arising from a general system of revenue, the power of regulating commerce and enforcing the observance of foreign treaties, and other necessary matters of less moment.

Exclusive of our objections originating from the want of power, we entertained an opinion that a general government, however guarded by declarations of rights, or cautionary provisions, must unavoidably, in a short time, be productive of the destruction of the civil liberty of such citizens who could be effectually coerced by it, by reason of the extensive territory of the United States, the dispersed situation of its inhabitants, and the insuperable difficulty of controlling or counteracting the views of a set of men (however unconstitutional and oppressive their acts might be) possessed of all the powers of government, and who, from their remoteness from their constituents, and necessary permanency of office, could not be supposed to be uniformly actuated by an attention to their welfare and happiness; that, however wise and energetic the principles of the general government might be, the extremities of the United States could not be kept in due submission and obedience to its laws, at the distance of many hundred miles from the seat of government; that, if the general legislature was composed of so numerous a body of men as to represent the interests of all the inhabitants of the United States, in the usual and true ideas of representation, the expense of supporting it would become intolerably burdensome; and that, if a few only were vested with a power of legislation, the interests of a great majority of the inhabitants of the United States must necessarily be unknown; or, if known, even in the first stages of the operations of the new government, unattended to.

These reasons were, in our opinion, conclusive against any system of consolidated government: to that recommended by the Convention, we suppose most of them very forcibly apply.

It is not our intention to pursue this subject farther than merely to explain our conduct in the discharge of the trust which the honorable the legislature reposed in us. Interested, however, as we are, in common with our fellow-citizens, in the result, we cannot forbear to declare that we have the strongest apprehensions that a government so organized as that recommended by the Convention cannot afford that security to equal and permanent liberty which we wished to make an invariable object of our pursuit.

We were not present at the completion of the new Constitution; but before we left the Convention, its principles were so well established as to convince us that no alteration was to be expected, to conform it to our ideas of expediency and safety. A persuasion, that our further attendance would be fruitless and unavailing, rendered us less solicitous to return.

We have thus explained our motives for opposing the adoption of the

national Constitution, which we conceived it our duty to communicate to your excellency, to be submitted to the consideration of the honorable legislature.

We have the honor to be, with the greatest respect, your excellency's most obedient and very humble servants,

ROBERT YATES,  
JOHN LANSING, Jun.

*His Excellency, Governor CLINTON.*

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A LETTER OF HIS EXCELLENCY, EDMUND  
RANDOLPH, ESQ.,

ON THE FEDERAL CONSTITUTION ;

ADDRESSED TO THE HONORABLE THE SPEAKER OF THE HOUSE OF DELEGATES,  
VIRGINIA.

RICHMOND, Oct. 10, 1787.

SIR: The Constitution, which I enclosed to the General Assembly in a late official letter, appears without my signature. This circumstance, although trivial in its own nature, has been rendered rather important, to myself at least, by being misunderstood by some and misrepresented by others. As I disdain to conceal the reasons for withholding my subscription, I have always been, still am, and ever shall be, ready to proclaim them to the world. To the legislature, therefore, by whom I was deputed to the Federal Convention, I beg leave now to address them; affecting no indifference to public opinion, but resolved not to court it by an unmanly sacrifice of my own judgment.

As this explanation will involve a summary but general review of our federal situation, you will pardon me, I trust, although I should transgress the usual bounds of a letter.

Before my departure for the Convention, I believed that the Confederation was not so eminently defective as it had been supposed. But after I had entered into a free communication with those who were best informed of the condition and interest of each state; after I had compared the intelligence derived from them with the properties which ought to characterize the government of our Union, — I became persuaded that the Confederation was destitute of every energy which a constitution of the United States ought to possess.

For the objects proposed by its institution were, that it should be a shield against foreign hostility, and a firm resort against domestic commotion; that it should cherish trade, and promote the prosperity of the states under its care.

But these are not among the attributes of our present union. Severe experience under the pressure of war, a ruinous weakness manifested since the return of peace, and the contemplation of those dangers which darken the future prospect, have condemned the hope of grandeur and safety under the auspices of the Confederation

In the exigencies of war, indeed, the history of its effects is but short; the final ratification having been delayed until the beginning of the year 1781. But however short, this period is distinguished by melancholy testimonies of its inability to maintain in harmony the social intercourse of the states, to defend Congress against encroachments on their rights, and to obtain, by requisitions, supplies to the federal treasury, or recruits to the federal armies. I shall not attempt an enumeration of the particular instances, but leave to your own remembrance, and the records of Congress, the support of the assertions.

In the season of peace, too, not many years have elapsed; and yet each of them has produced fatal examples of delinquency, and sometimes of pointed opposition to federal duties. To the various remonstrances of Congress I appeal for a gloomy but unexaggerated narrative of the injuries which our faith, honor, and happiness, have sustained by the failure of the states.

But these evils are past; and some may be led by an honest zeal to conclude that they cannot be repeated. Yes, sir, they will be repeated as long as the Confederation exists, and will bring with them other mischiefs springing from the same source, which cannot yet be foreseen in their full array of terror.

If we examine the constitution and laws of the several states, it is immediately discovered that the law of nations is unprovided with sanctions in many cases which deeply affect public dignity and public justice. The letter, however, of the Confederation does not permit Congress to remedy these defects; and such an authority, although evidently deducible from its spirit, cannot without violation of the second article, be assumed. Is it not a political phenomenon, that the head of the confederacy should be doomed to be plunged into war, from its wretched impotency to check offences against this law, and sentenced to witness, in unavailing anguish, the infraction of their engagements to foreign sovereigns?

And yet this is not the only grievous point of weakness. After a war shall be inevitable, the requisitions of Congress for quotas of men or money will again prove unproductive and fallacious. Two causes will always conspire to this baneful consequence.

1. No government can be stable which hangs on human inclination alone, unbiassed by coercion; and, 2, from the very connection between states bound to proportionate contributions, jealousies and suspicions naturally arise, which at least chill the ardor, if they do not excite the murmurs, of the whole. I do not forget, indeed, that, by one sudden impulse, our part of the American continent has been thrown into a military posture, and that, in the earlier annals of the war, our armies marched to the field on the mere recommendations of Congress. But ought we to argue, from a contest thus signalized by the magnitude of its stake, that, as often as a flame shall be hereafter kindled, the same enthusiasm will fill our legions, or renew them, as they may be thinned by losses?

If not, where shall we find protection? Impressions like those which prevent a compliance with requisitions of regular forces, will deprive the American republic of the services of militia. But let us suppose that they are attainable, and acknowledge, as I always shall, that they are the natural support of a free government. When it is remembered, that in their absence agriculture must languish; that they are not habituated to military exposures, and the rigor of military discipline; and that the necessity of holding in readiness successive detachments carries the expense far



beyond that of enlistments,—this resource ought to be adopted with caution.

As strongly, too, am I persuaded that the requisitions for money will not be more cordially received; for, besides the distrust which would prevail with respect to them also, besides the opinion entertained by each state of its own liberality and unsatisfied demands against the United States, there is another consideration, not less worthy of attention—the first rule for determining each quota by the value of all lands granted or surveyed, and of the buildings and improvements thereon. It is no longer doubted that an equitable, uniform mode of estimating that value is impracticable; and therefore twelve states have substituted the number of inhabitants, under certain limitations, as the standard according to which money is to be furnished. But under the subsisting articles of the Union, the assent of the thirteenth state is necessary, and has not yet been given. This does itself lessen the hope of procuring a revenue for federal uses; and the miscarriage of the impost almost rivets our despondency.

Amidst these disappointments, it would afford some consolation, if, when rebellion shall threaten any state, an ultimate asylum could be found under the wing of Congress. But it is at least equivocal whether they can intrude forces into a state rent asunder by civil discord, even with the purest solicitude for our federal welfare, and on the most urgent entreaties of the state itself. Nay, the very allowance of this power would be pageantry alone, from the want of money and of men.

To these defects of congressional power, the history of man has subjoined others, not less alarming. I earnestly pray that the recollection of common sufferings, which terminated in common glory, may check the sallies of violence, and perpetuate mutual friendship between the states. But I cannot presume that we are superior to those unsocial passions which, under like circumstances, have infested more ancient nations. I cannot presume that, through all time, in the daily mixture of American citizens with each other, in the conflicts for commercial advantages, in the discontents which the neighborhood of territory has been seen to engender in other quarters of the globe, and in the efforts of faction and intrigue,—thirteen distinct communities, under no effective superintending control, (as the United States confessedly now are, notwithstanding the bold terms of the Confederation,) will avoid a hatred to each other deep and deadly.

In the prosecution of this inquiry, we shall find the general prosperity to decline under a system thus unnerved. No sooner is the merchant prepared for foreign ports, with the treasures which this new world kindly offers to his acceptance, than it is announced to him that they are shut against American shipping, or opened under oppressive regulations. He urges Congress to a counter-policy, and is answered only by a condolence on the general misfortune. He is immediately struck with the conviction that, until exclusion shall be opposed to exclusion, and restriction to restriction, the American flag will be disgraced; for who can conceive that thirteen legislatures, viewing commerce under different points of view, and fancying themselves discharged from every obligation to concede the smallest of their commercial advantages for the benefit of the whole, will be wrought into a concert of action, and defiance of every prejudice? Nor is this all. Let the great improvements be recounted which have enriched and illustrated Europe; let it be noted how few those are which will be absolutely denied to the United States, comprehending within their bound-

aries the choicest blessings of climate, soil, and navigable waters; then let the most sanguine patriot banish, if he can, the mortifying belief, that all these must sleep until they shall be roused by the vigor of a national government.

I have not exemplified the preceding remarks by minute details, because they are evidently fortified by truth and the consciousness of the United States of America. I shall, therefore, no longer deplore the unfitness of the Confederation to secure our peace, but proceed, with a truly unaffected distrust of my own opinions, to examine what order of powers the government of the United States ought to enjoy; how they ought to be defended against encroachments; whether they can be interwoven in the Confederation, without an alteration of its very essence, or must be lodged in new hands;—showing, at the same time, the convulsions which seem to await us, from a dissolution of the Union, or partial confederacies.

To mark the kind and degree of authority which ought to be confided to the government of the United States, is no more than to reverse the description which I have already given of the defects of the Confederation.

From thence it will follow that the operations of peace and war will be clogged without regular advances of money, and that these will be slow indeed, if dependent on supplication alone; for what better name do requisitions deserve, which may be evaded or opposed without the fear of coercion? But although coercion is an indispensable ingredient, it ought not to be directed against a state, as a state, it being impossible to attempt it except by blockading the trade of the delinquent, or carrying war into its bowels. Even if these violent schemes were eligible in other respects, both of them might perhaps be defeated by the scantiness of the public chest; would be tardy in their complete effect, as the expense of the land and naval equipments must be first reimbursed; and might drive the proscribed state into the desperate resolve of inviting foreign alliances. Against each of them lie separate, unconquerable objections. A blockade is not equally applicable to all the states, they being differently circumstanced in commerce and in ports; nay, an excommunication from the privilege of the Union would be vain, because every regulation or prohibition may be easily eluded under the rights of American citizenship, or of foreign nations. But how shall we speak of the intrusion of troops? Shall we arm citizens against citizens, and habituate them to shed kindred blood? Shall we risk the inflicting of wounds which will generate a rancor never to be subdued? Would there be no room to fear that an army, accustomed to fight for the establishment of authority, would salute an emperor of their own? Let us not bring these things into jeopardy. Let us rather substitute the same process by which individuals are compelled to contribute to the government of their own states. Instead of making requisitions to the legislatures, it would appear more proper that taxes should be imposed by the federal head, under due modification and guards; that the collectors should demand from the citizens their respective quotas, and be supported as in the collection of ordinary taxes.

It follows, too, that, as the general government will be responsible to foreign nations, it ought to be able to annul any offensive measure, or enforce any public right. Perhaps, among the topics on which they may be aggrieved or complain, the commercial intercourse, and the manner in which contracts are discharged, may constitute the principal articles of clamor.

It follows, too, that the general government ought to be the supreme

arbitrer for adjusting every contention among the states. In all their connections, therefore, with each other, and particularly in commerce, which will probably create the greatest discord, it ought to hold the reins.

It follows, too, that the general government ought to protect each state against domestic as well as external violence.

And, lastly, it follows that through the general government alone can we ever assume the rank to which we are entitled by our resources and situation.

Should the people of America surrender these powers, they can be paramount to the constitutions and ordinary acts of legislation only by being delegated by them. I do not pretend to affirm, but I venture to believe, that, if the Confederation had been solemnly questioned in opposition to our Constitution, or even to one of our laws posterior to it, it must have given way; for never did it obtain a higher ratification than a resolution of Assembly in the daily form.

This will be one security against encroachment. But another, not less effectual, is, to exclude the individual states from any agency in the national government, as far as it may be safe, and their interposition may not be absolutely necessary.

But now, sir, permit me to declare that, in my humble judgment, the powers by which alone the blessings of a general government can be accomplished, cannot be interwoven in the Confederation without a change in its very essence; or, in other words, that the Confederation must be thrown aside. This is almost demonstrable, from the inefficacy of requisitions, and from the necessity of converting them into acts of authority. My suffrage, as a citizen, is also for additional powers. But to whom shall we commit these acts of authority — these additional powers? To Congress? When I formerly lamented the defects in the jurisdiction of Congress, I had no view to indicate any other opinion, than that the federal head ought not to be so circumscribed; for, free as I am at all times to profess my reverence for that body, and the individuals who compose it, I am yet equally free to make known my aversion to repose such a trust in a tribunal so constituted. My objections are not the visions of theory, but the result of my own observations in America, and of the experience of others abroad.

1. The legislative and executive are concentrated in the same persons. This, where real power exists, must eventuate in tyranny.

2. The representation of the states bears no proportion to their importance. This is an unreasonable subjection of the will of the majority to that of the minority.

3. The mode of election, and the liability of being recalled, may too often render the delegates rather partisans of their own states than representatives of the Union.

4. Cabal and intrigue must consequently gain an ascendancy in a course of years.

5. A single house of legislation will sometimes be precipitate, perhaps passionate.

6. As long as seven states are required for the smallest, and nine for the greatest votes, may not foreign influence, at some future day, insinuate itself, so as to interrupt every active exertion?

7. To crown the whole, it is scarce within the verge of possibility that so numerous an assembly should acquire that secrecy, despatch, and vigor, which are the test of excellence in the executive department.



My inference from these facts and principles is, that the new powers must be deposited in a new body, growing out of a consolidation of the Union, as far as the circumstances of the states will allow. Perhaps however, some may meditate its dissolution, and others, partial confederacies.

The first is an idea awful indeed, and irreconcilable with a very early and hitherto uniform conviction, that without union we must be undone. For, before the voice of war was heard, the pulse of the then colonies was tried, and found to beat in unison. The unremitting labor of our enemies was to divide, and the policy of every Congress to bind us together. But in no example was this truth more clearly displayed, than in the prudence with which independence was unfolded to the sight, and in the forbearance to declare it until America almost unanimously called for it. After we had thus launched into troubles never before explored, and in the hour of heavy distress, the remembrance of our social strength not only forbade despair, but drew from Congress the most illustrious repetition of their settled purpose to despise all terms short of independence.

Behold, then, how successful and glorious we have been, while we acted in fraternal concord. But let us discard the illusion, that, by this success and this glory, the crest of danger has irrecoverably fallen. Our governments are yet too youthful to have acquired stability by habit. Our very quiet depends upon the duration of the Union. Among the upright and intelligent, few can read without emotion the future fate of the states, if severed from each other. Then shall we learn the full weight of foreign intrigue. Then shall we hear of partitions of our country. If a prince, inflamed by the lust of conquest, should use one state as the instrument of enslaving others; if every state is to be wearied by perpetual alarms, and compelled to maintain large military establishments; if all questions are to be decided by an appeal to arms, where a difference of opinion cannot be removed by negotiation; in a word, if all the direful misfortunes which haunt the peace of rival nations are to triumph over the land, for what have we to contend? Why have we exhausted our wealth? Why have we basely betrayed the heroic martyrs of the federal cause?

But dreadful as the total dissolution of the Union is to my mind, I entertain no less horror at the thought of partial confederacies. I have not the least ground for supposing that an overture of this kind would be listened to by a single state; and the presumption is, that the politics of the greater part of the states flow from the warmest attachment to a union of the whole. If, however, a lesser confederacy could be obtained by Virginia, let me conjure my countrymen well to weigh the probable consequences, before they attempt to form it.

On such an event, the strength of the Union would be divided in two, or perhaps three parts. Has it so increased, since the war, as to be divisible, and yet remain sufficient for our happiness?

The utmost limit of any partial confederacy, which Virginia could expect to form, would comprehend the three Southern States, and her nearest northern neighbor. But they, like ourselves, are diminished in their real force, by the mixture of an unhappy species of population.

Again may I ask, whether the opulence of the United States has been augmented since the war? This is answered in the negative, by a load of debt, and the declension of trade.

At all times must a southern confederacy support ships of war and



soldiery? As soon would a navy move from the forest, and an army spring from the earth, as such a confederacy, indebted, impoverished in its commerce, and destitute of men, could, for some years at least, provide an ample defence for itself.

Let it not be forgotten that nations, which can enforce their rights, have large claims against the United States, and that the creditor may insist upon payment from any of them. Which of them would probably be the victim? The most productive and the most exposed. When vexed by reprisals of war, the Southern States will sue for alliance on this continent or beyond the sea. If for the former, the necessity of a union of the whole is decided; if for the latter, America will, I fear, react the scenes of confusion and bloodshed exhibited among most of those nations, which have, too late, repented the folly of relying on auxiliaries.

Two or more confederacies cannot but be competitors for power. The ancient friendship between the citizens of America being thus cut off, bitterness and hostility will succeed in its place. In order to prepare against surrounding danger, we shall be compelled to vest, somewhere or other, power approaching near to military government.

The annals of the world have abounded so much with instances of a divided people being a prey to foreign influence, that I shall not restrain my apprehensions of it, should our Union be torn asunder. The opportunity of insinuating it will be multiplied in proportion to the parts into which we may be broken.

In short, sir, I am fatigued with summoning up to my imagination the miseries which will harass the United States, if torn from each other, and which will not end until they are superseded by fresh mischiefs under the yoke of a tyrant.

I come, therefore, to the last, and perhaps only refuge in our difficulties, — a consolidation of the Union, as far as circumstances will permit. To fulfil this desirable object, the Constitution was framed by the Federal Convention. A quorum of eleven states, and the only member from the twelfth, have subscribed it; *Mr. Mason, of Virginia, Mr. Gerry, of Massachusetts,* and myself, having refused to subscribe; also *Robert Yates, and John Lansing, of New York.*

Why I refused will, I hope, be solved to the satisfaction of those who know me, by saying that a sense of duty commanded me thus to act. It commanded me, sir; for believe me, that no event of my life ever occupied more of my reflection. To subscribe seemed to offer no inconsiderable gratification, since it would have presented me to the world as a fellow-laborer with the learned and zealous statesmen of America.

But it was far more interesting to my feelings that I was about to differ from three of my colleagues, one of whom is, to the honor of the country which he has saved, embosomed in their affections, and can receive no praise from the highest lustre of language; the other two of whom have been long enrolled among the wisest and best lovers of the commonwealth; and the unshaken and intimate friendship of all of whom I have ever prized, and still do prize, as among the happiest of all acquisitions. I was no stranger to the reigning partiality for the members who composed the Convention, and had not the smallest doubt, that from this cause, and from the ardor for a reform of government, the first applauses, at least, would be loud and profuse. I suspected, too, that there was something in the human breast which for a time would be apt to construe a temperateness in politics into an enmity to the Union.

Nay, I plainly foresaw that, in the dissensions of parties, a middle line would probably be interpreted into a want of enterprise and decision. But these considerations, how seducing soever, were feeble opponents to the suggestion of my conscience. I was sent to exercise my judgment, and to exercise it was my fixed determination; being instructed by even an imperfect acquaintance with mankind, that self-approbation is the only true reward which a political career can bestow, and that popularity would have been but another name for perfidy, if to secure it I had given up the freedom of thinking for myself.

It would have been a peculiar pleasure to me to have ascertained, before I left Virginia, the temper and genius of my fellow-citizens, considered relatively to a government so substantially differing from the Confederation as that which is now submitted. But this was, for many obvious reasons, impossible; and I was thereby deprived of what I thought the necessary guides.

I saw, however, that the Confederation was tottering from its own weakness, and that the sitting of the Convention was a signal of its total insufficiency. I was, therefore, ready to assent to a scheme of government which was proposed, and which went beyond the limits of the Confederation, believing that, without being too extensive, it would have preserved our tranquillity until that temper and that genius should be collected.

But when the plan which is now before the General Assembly was on its passage through the Convention, I moved that the state conventions should be at liberty to amend, and that a second General Convention should be holden, to discuss the amendments which should be suggested by them. This motion was in some measure justified by the manner in which the Confederation was forwarded originally, by Congress, to the state legislatures, in many of which amendments were proposed; and those amendments were afterwards examined in Congress. Such a motion was, then, doubly expedient here, as the delegation of so much more power was sought for. But it was negatived. I then expressed my unwillingness to sign. My reasons were the following:—

1. It is said, in the resolutions which accompany the Constitution, that it is to be submitted to a convention of delegates chosen in each state by the people thereof, for their assent and ratification. The meaning of these terms is universally allowed to be, that the convention must either adopt the Constitution in the whole, or reject it in the whole, and is positively forbidden to amend. If, therefore, I had signed, I should have felt myself bound to be silent as to amendments, and to endeavor to support the Constitution without the correction of a letter. With this consequence before my eyes, and with a determination to attempt an amendment, I was taught by a regard for consistency not to sign.

2. My opinion always was, and still is, that every citizen of America, let the crisis be what it may, ought to have a full opportunity to propose, through his representatives, any amendment which, in his apprehension, tends to the public welfare. By signing, I should have contradicted this sentiment.

3. A constitution ought to have the hearts of the people on its side. But if, at a future day, it should become burdensome after having been adopted in the whole, and they should insinuate that it was in some measure forced upon them by being confined to the single alternative of

taking or rejecting it altogether, — under my impressions, and with my opinions, I should not be able to justify myself, had I signed.

4. I was always satisfied, as I have now experienced, that this great subject would be placed in new lights and attitudes by the criticism of the world, and that no man can assure himself how a constitution will work for a course of years, until at least he shall have the observations of the people at large. I also fear more from inaccuracies in a constitution, than from gross errors in any other composition; because our dearest interests are to be regulated by it, and power, if loosely given, especially where it will be interpreted with great latitude, may bring sorrow in its execution. Had I signed with these ideas, I should have virtually shut my ears against the information which I ardently desired.

5. I was afraid that, if the Constitution was to be submitted to the people, to be wholly adopted or wholly rejected by them, they would not only reject it, but bid a lasting farewell to the Union. This formidable event I wished to avert, by keeping myself free to propose amendments, and thus, if possible, to remove the obstacles to an effectual government. But it will be asked whether all these arguments were not well weighed in Convention. They were, sir, with great candor. Nay, when I called to mind the respectability of those with whom I was associated, I almost lost confidence in these principles. On other occasions, I should cheerfully have yielded to a majority; on this, the fate of thousands yet unborn enjoined me not to yield until I was convinced.

Again, may I be asked why the mode pointed out in the Constitution, for its amendment, may not be sufficient security against its imperfections, without now arresting its progress? My answers are — 1. That it is better to amend, while we have the Constitution in our power, while the passions of designing men are not yet enlisted, and while a bare majority of the states may amend, than to wait for the uncertain assent of three fourths of the states. 2. That a bad feature in government becomes more and more fixed every day. 3. That frequent changes of a constitution, even if practicable, ought not to be wished, but avoided as much as possible. And, 4. That in the present case, it may be questionable whether, after the particular advantages of its operation shall be discerned, three fourths of the states can be induced to amend.

I confess that it is no easy task to devise a scheme which shall be suitable to the views of all. Many expedients have occurred to me, but none of them appear less exceptionable than this; that if our convention should choose to amend, another federal convention be recommended; that, in that federal convention, the amendments proposed by this or any other state be discussed; and if incorporated in the Constitution, or rejected, — or if a proper number of the other states should be unwilling to accede to a second convention, — the Constitution be again laid before the same state conventions, which shall again assemble on the summons of the executives, and it shall be either wholly adopted, or wholly rejected, without a further power of amendment. I count such a delay as nothing, in comparison with so grand an object; especially, too, as the privilege of amending must terminate after the use of it once.

I should now conclude this letter, which is already too long, were it not incumbent on me, from having contended for amendments, to set forth the particulars which I conceive to require correction. I undertake this with reluctance, because it is remote from my intentions to catch the prejudices or prepossessions of any man. But as I mean only to manifest

that I have not been actuated by caprice, and now to explain every objection at full length would be an immense labor, I shall content myself with enumerating certain heads in which the Constitution is most repugnant to my wishes:—

The two first points are the equality of suffrage in the Senare, and the submission of commerce to a mere majority in the legislature, with no other check than the revision of the President. I conjecture that neither of these things can be corrected, and particularly the former, without which we must have risen perhaps in disorder.

But I am sanguine in hoping that, in every other justly obnoxious cause, Virginia will be seconded by a majority of the states. I hope that she will be seconded; 1. In causing all ambiguities of expression to be precisely explained; 2. In rendering the President ineligible after a given number of years; 3. In taking from him the power of nominating to the judiciary offices, or of filling up vacancies which may there happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session; 4. In taking from him the power of pardoning for treason, at least before conviction; 5. In drawing a line between the powers of Congress and individual states; and in defining the former, so as to leave no clashing of jurisdictions nor dangerous deputies; and to prevent the one from being swallowed up by the other, under cover of general words and implication; 6. In abridging the power of the Senate to make treaties supreme laws of the land; 7. In incapacitating the Congress to determine their own salaries; and, 8. In limiting and defining the judicial power.

The proper remedy must be consigned to the wisdom of the Convention; and the final step which Virginia shall pursue, if her overtures shall be discarded, must also rest with them.

You will excuse me, sir, for having been thus tedious. My feelings and duty demanded this exposition; for through no other channel could I rescue my omission to sign from misrepresentation, and in no more effectual way could I exhibit to the General Assembly an unreserved history of my conduct.

I have the honor, sir, to be, with great respect, your obedient servant,  
EDMUND RANDOLPH.

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## LETTER FROM THE HON. ROGER SHERMAN, AND THE HON. OLIVER ELLSWORTH, ESQUIRES,

DELEGATES FROM THE STATE OF CONNECTICUT, IN THE LATE FEDERAL CONVENTION.

TO HIS EXCELLENCY, THE GOVERNOR OF SAID STATE.

NEW LONDON, *September 26, 1787.*

SIR: We have the honor to transmit to your excellency a printed copy of the Constitution formed by the Federal Convention, to be laid before the legislature of the state.

The general principles which governed the Convention in their deliberations on the subject, are stated in their address to Congress.



We think it may be of use to make some further observations on particular parts of the Constitution.

The Congress is differently organized; yet the whole number of members, and this state's proportion of suffrage, remain the same as before.

The equal representation of the states in the Senate, and the voice of that branch in the appointment to offices, will secure the rights of the lesser, as well as of the greater states.

Some additional powers are vested in Congress, which was a principal object that the states had in view in appointing the Convention. Those powers extend only to matters respecting the common interests of the Union, and are specially defined, so that the particular states retain their sovereignty in all other matters.

The objects for which Congress may apply moneys are the same mentioned in the eighth article of the Confederation, viz., for the common defence and general welfare, and for payment of the debts incurred for those purposes. It is probable that the principal branch of revenue will be duties on imports. What may be necessary to be raised by direct taxation is to be apportioned on the several states, according to the number of their inhabitants; and although Congress may raise the money by their own authority, if necessary, yet that authority need not be exercised, if each state will furnish its quota.

The restraint on the legislatures of the several states respecting emitting bills of credit, making any thing but money a tender in payment of debts, or impairing the obligation of contracts by *ex post facto* laws, was thought necessary as a security to commerce, in which the interest of foreigners, as well as of the citizens of different states, may be affected.

The Convention endeavored to provide for the energy of government on the one hand, and suitable checks on the other hand, to secure the rights of the particular states, and the liberties and properties of the citizens. We wish it may meet the approbation of the several states, and be a means of securing their rights, and lengthening out their tranquillity.

With great respect, we are, sir, your excellency's obedient, humble servants,

ROGER SHERMAN,  
OLIVER ELLSWORTH.

*His Excellency, Governor* HUNTINGTON.

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LETTER CONTAINING THE REASONS OF THE  
HON. ELBRIDGE GERRY, ESQ., .

FOR NOT SIGNING THE FEDERAL CONSTITUTION.

GENTLEMEN: I have the honor to enclose, pursuant to my commission, the Constitution proposed by the Federal Convention.

To this system I gave my dissent, and shall submit my objections to the honorable legislature.

It was painful for me, on a subject of such national importance, to differ from the respectable members who signed the Constitution; but

conceiving, as I did, that the liberties of America were not secured by the system, it was my duty to oppose it.

My principal objections to the plan are, that there is no adequate provision for a representation of the people; that they have no security for the right of election; that some of the powers of the legislature are ambiguous, and others indefinite and dangerous; that the executive is blended with, and will have an undue influence over, the legislature; that the judicial department will be oppressive; that treaties of the highest importance may be formed by the President, with the advice of two thirds of a quorum of the Senate; and that the system is without the security of a bill of rights. These are objections which are not local, but apply equally to all the states.

As the Convention was called for "the sole and express purpose of revising the Articles of Confederation, and reporting to Congress, and the several legislatures, such alterations and provisions as shall render the Federal Constitution adequate to the exigencies of government, and the preservation of the Union," I did not conceive that these powers extend to the formation of the plan proposed; but the Convention being of a different opinion, I acquiesced in it, being fully convinced that, to preserve the Union, an efficient government was indispensably necessary, and that it would be difficult to make proper amendments to the Articles of Confederation.

The Constitution proposed has few, if any, federal features, but is rather a system of national government. Nevertheless, in many respects, I think it has great merit, and, by proper amendments, may be adapted to the "exigencies of government, and preservation of liberty."

The question on this plan involves others of the highest importance: 1. Whether there shall be a dissolution of the federal government; 2. Whether the several state governments shall be so altered as in effect to be dissolved; 3. Whether, in lieu of the federal and state governments, the national Constitution now proposed shall be substituted without amendment. Never, perhaps, were a people called on to decide a question of greater magnitude. Should the citizens of America adopt the plan as it now stands, their liberties may be lost; or should they reject it altogether, anarchy may ensue. It is evident, therefore, that they should not be precipitate in their decisions; that the subject should be well understood;—lest they should refuse to support the government after having hastily accepted it.

If those who are in favor of the Constitution, as well as those who are against it, should preserve moderation, their discussions may afford much information, and finally direct to a happy issue.

It may be urged by some, that an implicit confidence should be placed in the Convention; but, however respectable the members may be who signed the Constitution, it must be admitted that a free people are the proper guardians of their rights and liberties; that the greatest men may err, and that their errors are sometimes of the greatest magnitude.

Others may suppose that the Constitution may be safely adopted, because therein provision is made to amend it. But cannot this object be better attained before a ratification than after it? And should a free people adopt a form of government under conviction that it wants amendment?

And some may conceive that, if the plan is not accepted by the people,

they will not unite in another. But surely, while they have the power to amend, they are not under the necessity of rejecting it.

I have been detained here longer than I expected, but shall leave this place in a day or two for Massachusetts, and on my arrival shall submit the reasons (if required by the legislature) on which my objections are grounded.

I shall only add that, as the welfare of the Union requires a better Constitution than the Confederation, I shall think it my duty, as a citizen of Massachusetts, to support that which shall be finally adopted, sincerely hoping it will secure the liberty and happiness of America.

I have the honor to be, gentlemen, with the highest respect for the honorable legislature and yourselves, your most obedient and very humble servant,

E. GERRY.

*To the Hon. SAMUEL ADAMS, Esq., President of the Senate, and the Hon. JAMES WARREN, Esq., Speaker of the House of Representatives, of Massachusetts.*



## OBJECTIONS OF THE HON. GEORGE MASON,

ONE OF THE DELEGATES FROM VIRGINIA IN THE LATE CONTINENTAL CONVENTION,

TO THE PROPOSED FEDERAL CONSTITUTION;

ASSIGNED AS HIS REASONS FOR NOT SIGNING THE SAME.

[EXTRACTS.]

THERE is no declaration of rights; and, the laws of the general government being paramount to the laws and constitutions of the several states, the declarations of rights in the separate states are no security. Nor are the people secured even in the enjoyment of the benefit of the common law, which stands here upon no other foundation than its having been adopted by the respective acts forming the constitutions of the several states.

In the House of Representatives there is not the substance, but the shadow only, of representation, which can never produce proper information in the legislature, or inspire confidence in the people. The laws will, therefore, be generally made by men little concerned in, and unacquainted with, their effects and consequences.

The Senate have the power of altering all money bills, and of originating appropriations of money, and the salaries of the officers of their own appointment, in conjunction with the President of the United States, although they are not the representatives of the people, or amenable to them. These, with their other great powers, (viz., their powers in the appointment of ambassadors, and all public officers, in making treaties, and in trying all impeachments;) their influence upon, and connection with, the supreme executive from these causes; their duration of office; and their being a constant existing body, almost continually sitting, joined with their being one complete branch of the legislature, — will destroy any balance in

the government, and enable them to accomplish what usurpations they please upon the rights and liberties of the people.

The judiciary of the United States is so constructed and extended as to absorb and destroy the judiciaries of the several states; thereby rendering laws as tedious, intricate, and expensive, and justice as unattainable, by a great part of the community, as in England; and enabling the rich to oppress and ruin the poor.

The President of the United States has no constitutional council, (a thing unknown in any safe and regular government.) He will therefore be unsupported by proper information and advice, and will generally be directed by minions and favorites; or he will become a tool to the Senate; or a council of state will grow out of the principal officers of the great departments — the worst and most dangerous of all ingredients for such a council, in a free country; for they may be induced to join in any dangerous or oppressive measures, to shelter themselves, and prevent an inquiry into their own misconduct in office. Whereas, had a constitutional council been formed (as was proposed) of six members, viz., two from the Eastern, two from the Middle, and two from the Southern States, to be appointed by vote of the states in the House of Representatives, with the same duration and rotation of office as the Senate, the executive would always have had safe and proper information and advice: the president of such a council might have acted as Vice-President of the United States, *pro tempore*, upon any vacancy or disability of the chief magistrate; and long-continued sessions of the Senate would in a great measure have been prevented. From this fatal defect of a constitutional council has arisen the improper power of the Senate in the appointment of the public officers, and the alarming dependence and connection between that branch of the legislature and the supreme executive. Hence, also, sprang that unnecessary officer, the Vice-President, who, for want of other employment, is made president of the Senate; thereby dangerously blending the executive and legislative powers, besides always giving to some one of the states an unnecessary and unjust preëminence over the others.

The President of the United States has the unrestrained power of granting pardon for treason; which may be sometimes exercised to screen from punishment those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt. By declaring all treaties supreme laws of the land, the executive and the Senate have, in many cases, an exclusive power of legislation, which might have been avoided, by proper distinctions with respect to treaties, and requiring the assent of the House of Representatives, where it could be done with safety.

By requiring only a majority to make all commercial and navigation laws, the five Southern States (whose produce and circumstances are totally different from those of the eight Northern and Eastern States) will be ruined; for such rigid and premature regulations may be made, as will enable the merchants of the Northern and Eastern States not only to demand an exorbitant freight, but to monopolize the purchase of the commodities, at their own price, for many years, to the great injury of the landed interest, and the impoverishment of the people; and the danger is the greater, as the gain on one side will be in proportion to the loss on the other. Whereas, requiring two thirds of the members present in both houses, would have produced mutual moderation, promoted the general interest, and removed an insuperable objection to the adoption of the government



Under their own construction of the general clause at the end of the enumerated powers, the Congress may grant monopolies in trade and commerce, constitute new crimes, inflict unusual and severe punishments, and extend their power as far as they shall think proper; so that the state legislatures have no security for the powers now presumed to remain to them, or the people for their rights. There is no declaration of any kind for preserving the liberty of the press, the trial by jury in civil cases, nor against the danger of standing armies in time of peace.

The state legislatures are restrained from laying export duties on their own produce; the general legislature is restrained from prohibiting the further importation of slaves for twenty-odd years, though such importations render the United States weaker, more vulnerable, and less capable of defence. Both the general legislature and the state legislatures are expressly prohibited making *ex post facto* laws, though there never was, nor can be, a legislature but must and will make such laws, when necessity and the public safety require them, which will hereafter be a breach of all the constitutions in the Union, and afford precedents for other innovations.

This government will commence in a moderate aristocracy: it is at present impossible to foresee whether it will, in its operation, produce a monarchy or a corrupt oppressive aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other.

GEO. MASON.

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## ADDRESS TO THE PEOPLE OF THE STATE OF NEW YORK,

ON THE SUBJECT OF THE PROPOSED FEDERAL CONSTITUTION

By THE HON. JOHN JAY,

MINISTER FOR FOREIGN AFFAIRS TO THE UNITED STATES  
IN CONGRESS ASSEMBLED.

[1788.]

[EXTRACTS.]

FRIENDS AND FELLOW-CITIZENS: The Convention concurred in opinion with the people, that a national government, competent to every national object, was indispensably necessary; and it was as plain to them, as it now is to all America, that the present Confederation does not provide for such a government. These points being agreed, they proceeded to consider how and in what manner such a government could be formed, as, on the one hand, should be sufficiently energetic to raise us from our prostrate and distressed situation, and, on the other, be perfectly consistent with the liberties of the people of every state. Like men to whom the experience of other ages and countries had taught wisdom, they not only determined that it should be erected by, and depend on, the

people, but, remembering the many instances in which governments vested solely in one man, or one body of men, had degenerated into tyrannies, they judged it most prudent that the three great branches of power should be committed to different hands, and therefore that the executive should be separated from the legislative, and the judicial from both. Thus far the propriety of their work is easily seen and understood, and therefore is thus far *almost* universally approved; for no one man or thing under the sun ever yet pleased every body.

The next question was, what particular powers should be given to these three branches. Here the different views and interests of the different states, as well as the different abstract opinions of their members on such points, interposed many difficulties. Here the business became complicated, and presented a wide field for investigation — too wide for every eye to take a quick and comprehensive view of it.

It is said that “in a multitude of counsellors there is safety,” because, in the first place, there is greater security for probity; and in the next, if every member cast in only his mite of information and argument, their joint stock of both will thereby become greater than the stock possessed by any one single man out of doors. Gentlemen out of doors, therefore, should not be hasty in condemning a system which probably rests on more good reasons than they are aware of, especially when formed under such advantages, and recommended by so many men of distinguished worth and abilities.

The difficulties before mentioned occupied the Convention a long time; and it was not without mutual concessions that they were at last surmounted. These concessions serve to explain to us the reason why some parts of the system please in some states which displease in others, and why many of the objections which have been made to it are so contradictory and inconsistent with one another. It does great credit to the temper and talents of the Convention, that they were able so to reconcile the different views and interests of the different states, and the clashing opinions of their members, as to unite with such singular and almost perfect unanimity in any plan whatever, on a subject so intricate and perplexed. It shows that it must have been thoroughly discussed and understood; and probably, if the community at large had the same lights and reasons before them, they would, if equally candid and uninfluenced, be equally unanimous.

It would be arduous, and indeed impossible, to comprise within the limits of this address a full discussion of every part of the plan. Such a task would require a volume; and few men have leisure or inclination to read volumes on any subject. The objections made to it are almost without number, and many of them without reason. Some of them are real and honest, and others merely ostensible. There are friends to union and a national government who have serious doubts, who wish to be informed, and to be convinced; and there are others, who, neither wishing for union nor any national government at all, will oppose and object to any plan that can be contrived.

We are told, among other strange things, that the liberty of the press is left insecure by the proposed Constitution; and yet that Constitution says neither more nor less about it than the Constitution of the state of New York does. We are told that it deprives us of trial by jury; whereas the fact is, that it expressly secures it in certain cases, and takes it away in none. It is absurd to construe the silence of this, or of our own Constitution, rela

tive to a great number of our rights, into a total extinction of them. Silence and blank paper neither grant nor take away any thing. Complaints are also made that the proposed Constitution is not accompanied by a bill of rights; and yet they who make these complaints know, and are content, that no bill of rights accompanied the Constitution of this state. In days and countries where monarchs and their subjects were frequently disputing about prerogative and privileges, the latter then found it necessary, as it were, to run out the line between them, and oblige the former to admit, by solemn acts, called bills of rights, that certain enumerated rights belonged to the people, and were not comprehended in the royal prerogative. But, thank God, we have no such disputes; we have no monarchs to contend with, or demand admissions from. The proposed government is to be the government of the people: all its officers are to be their officers, and to exercise no rights but such as the people commit to them. The Constitution only serves to point out that part of the people's business, which they think proper by it to refer to the management of the persons therein designated: those persons are to receive that business to manage, not for themselves, and as their own, but as agents and overseers for the people, to whom they are constantly responsible, and by whom only they are to be appointed.

But the design of this address is not to investigate the merits of the plan, nor of the objections made to it. They who seriously contemplate the present state of our affairs, will be convinced that other considerations, of at least equal importance, demand their attention. Let it be admitted that this plan, like every thing else devised by man, has its imperfections. That it does not please every body, is certain; and there is little reason to expect one that will. It is a question of great moment to you, whether the probability of our being able seasonably to obtain a better, is such as to render it prudent and advisable to reject this, and run the risk. Candidly to consider this question, is the design of this address.

As the importance of this question must be obvious to every man, whatever his private opinions respecting it may be, it becomes us all to treat it in that calm and temperate manner which a subject so deeply interesting to the future welfare of our country, and prosperity, requires. Let us, therefore, as much as possible, repress and compose that irritation in our minds which too warm disputes about it may have excited. Let us endeavor to forget that this or that man is on this or that side; and that we ourselves, perhaps without sufficient reflection, have classed ourself with one or the other party. Let us remember that this is not to be regarded as a matter that only touches our local parties, but as one so great, so general, and so extensive, in its future consequence to America, that, for our deciding upon it according to the best of our unbiased judgment, we must be highly responsible both here and hereafter.

The question now before us naturally leads to three inquiries:—

1. Whether it is probable that a better plan can be obtained.
2. Whether, if attainable, it is likely to be in season.
3. What would be our situation if, after rejecting this, all our efforts to obtain a better should prove fruitless.

The men who formed this plan are Americans, who had long deserved and enjoyed our confidence, and who are as much interested in having a good government as any of us are or can be. They were appointed to that business at a time when the states had become very sensible of the derangement of our national affairs, and of the impossibility of retrieving

them under the existing Confederation. Although well persuaded that nothing but a good national government could oppose and divert the tide of evils that was flowing in upon us, yet those gentlemen met in Convention with minds perfectly unprejudiced in favor of any particular plan. The minds of their constituents were at that time equally cool and dispassionate. All agreed in the necessity of doing something; but no one ventured to say decidedly what precisely ought to be done. Opinions were then fluctuating and unfixed; and whatever might have been the wishes of a few individuals, yet while the Convention deliberated, the people remained in silent suspense. Neither wedded to favorite systems of their own, nor influenced by popular ones abroad, the members were more desirous to receive light from, than to impress their private sentiments on, one another.

These circumstances naturally opened the door to that spirit of candor, of calm inquiry, of mutual accommodation, and mutual respect, which entered into the Convention with them, and regulated their debates and proceedings.

The impossibility of agreeing upon any plan, that would exactly quadrate with the local policy and objects of every state, soon became evident, and they wisely thought it better mutually to coincide and accommodate, and in that way to fashion their system as much as possible by the circumstances and wishes of the different states, than, by pertinaciously adhering each to his own ideas, oblige the Convention to rise without doing any thing. They were sensible that obstacles, arising from local circumstances, would not cease while those circumstances continued to exist; and, so far as those circumstances depended on differences of climate, productions, and commerce, that no change was to be expected. They were likewise sensible that, on a subject so comprehensive, and involving such a variety of points and questions, the most able, the most candid, and the most honest men will differ in opinion. The same proposition seldom strikes many minds exactly in the same point of light. Different habits of thinking, different degrees and modes of education, different prejudices and opinions, early formed and long entertained, conspire, with a multitude of other circumstances, to produce among men a diversity and contrariety of opinions on questions of difficulty. Liberality, therefore, as well as prudence, induced them to treat each other's opinions with tenderness; to argue without asperity; and to endeavor to convince the judgment, without hurting the feelings, of each other. Although many weeks were passed in these discussions, some points remained on which a unison of opinions could not be effected. Here, again, that same happy disposition to unite and conciliate induced them to meet each other; and enabled them, by mutual concessions, finally to complete and agree to the plan they have recommended, and that, too, with a degree of unanimity which, considering the variety of discordant views and ideas they had to reconcile, is really astonishing.

They tell us, very honestly, that this plan is the result of accommodation. They do not hold it up as the best of all possible ones, but only as the best which they could unite in and agree to. If such men, appointed and meeting under such auspicious circumstances, and so sincerely disposed to conciliation, could go no farther in their endeavors to please every state and every body, what reason have we, at present, to expect any system that would give more general satisfaction?

Suppose this plan to be rejected; what measures would you propose



for obtaining a better? Some will answer, "Let us appoint another convention; and, as every thing has been said and written that can well be said and written on the subject, they will be better informed than the former one was, and consequently be better able to make and agree upon a more eligible one."

This reasoning is fair, and, as far as it goes, has weight; but it nevertheless takes one thing for granted which appears very doubtful; for, although the new convention might have more information, and perhaps equal abilities, yet it does not from thence follow that they would be equally disposed to agree. The contrary of this position is most probable. You must have observed that the same temper and equanimity which prevailed among the people on former occasions, no longer exist. We have unhappily become divided into parties; and this important subject has been handled with such indiscreet and offensive acrimony, and with so many little, unhandsome artifices and misrepresentations, that pernicious heats and animosities have been kindled, and spread their flames far and wide among us. When, therefore, it becomes a question who shall be deputed to the new convention, we cannot flatter ourselves that the talents and integrity of the candidates will determine who shall be elected. Federal electors will vote for federal deputies, and anti-federal electors for anti-federal ones. Nor will either party prefer the most moderate of their adherents; for, as the most stanch and active partisans will be the most popular, so the men most willing and able to carry points, to oppose and divide, and embarrass their opponents, will be chosen. A convention formed at such a season, and of such men, would be but too exact an epitome of the great body that named them. The same party views, the same propensity to opposition, the same distrusts and jealousies, and the same unaccommodating spirit, which prevail without, would be concentrated and ferment with still greater violence within. Each deputy would recollect who sent him, and why he was sent, and be too apt to consider himself bound in honor to contend and act vigorously under the standard of his party, and not hazard their displeasure by preferring compromise to victory. As vice does not sow the seed of virtue, so neither does passion cultivate the fruits of reason. Suspicions and resentments create no disposition to conciliate; nor do they infuse a desire of making partial and personal objects bend to general union and the common good. The utmost efforts of that excellent disposition were necessary to enable the late Convention to perform their task; and although contrary causes sometimes operate similar effects, yet to expect that discord and animosity should produce the fruits of confidence and agreement, is to expect "grapes from thorns, and figs from thistles."

The states of Georgia, Delaware, Jersey, and Connecticut, have adopted the present plan with unexampled unanimity. They are content with it as it is; and consequently their deputies, being apprized of the sentiments of their constituents, will be little inclined to make alterations, and cannot be otherwise than averse to changes, which they have no reason to think would be agreeable to their people. Some other states, though less unanimous, have nevertheless adopted it by very respectable majorities — and for reasons so evidently cogent, that even the minority in one of them have nobly pledged themselves for its promotion and support. From these circumstances, the new convention would derive and experience difficulties unknown to the former. Nor are these the only additional difficulties they would have to encounter. Few are ignorant that there

has lately sprung up a sect of politicians who teach, and profess to believe, that the extent of our nation is too great for the superintendence of one national government, and on that principle argue that it ought to be divided into two or three. This doctrine, however mischievous in its tendency and consequences, has its advocates; and, should any of them be sent to the convention, it will naturally be their policy rather to cherish than to prevent divisions; for, well knowing that the institution of any national government would blast their favorite system, no measures that lead to it can meet with their aid or approbation.

Nor can we be certain whether or not any, and what, foreign influence would, on such an occasion, be indirectly exerted, nor for what purposes. Delicacy forbids an ample discussion of this question. Thus much may be said without error or offence, viz. : that such foreign nations as desire the prosperity of America, and would rejoice to see her become great and powerful, under the auspices of a government wisely calculated to extend her commerce, to encourage her navigation and marine, and to direct the whole weight of her power and resources as her interest and honor may require, will doubtless be friendly to the union of states, and to the establishment of a government able to perpetuate, protect, and dignify it. Such other foreign nations, if any such there be, who, jealous of our growing importance, and fearful that our commerce and navigation should impair their own, behold our rapid population with regret, and apprehend that the enterprising spirit of our people, when seconded by power and probability of success, may be directed to objects not consistent with their policy or interests, cannot fail to wish that we may continue a weak and a divided people.

These considerations merit much attention; and candid men will judge how far they render it probable that a new convention would be able either to agree in a better plan, or, with tolerable unanimity, in any plan at all. Any plan, forcibly carried, by a slender majority, must expect numerous opponents among the people, who, especially in their present temper, would be more inclined to reject than adopt any system so made and carried. We should, in such a case, again see the press teeming with publications for and against it; for, as the minority would take pains to justify their dissent, so would the majority be industrious to display the wisdom of their proceedings. Hence new divisions, new parties, and new distractions, would ensue; and no one can foresee or conjecture when or how they would terminate.

Let those who are sanguine in their expectations of a better plan from a new convention, also reflect on the delays and risks to which it would expose us. Let them consider whether we ought, by continuing much longer in our present humiliating condition, to give other nations further time to perfect their restrictive systems of commerce, reconcile their own people to them, and to fence, and guard, and strengthen them by all those regulations and contrivances in which a jealous policy is ever fruitful. Let them consider whether we ought to give further opportunities to discord to alienate the hearts of our citizens from one another, and thereby encourage new Cromwells to bold exploits. Are we certain that our foreign creditors will continue patient, and ready to proportion their forbearance to our delays? Are we sure that our distresses, dissensions, and weakness, will neither invite hostility nor insult? If they should, how ill prepared shall we be for defence, without union, without government, without money, and without credit!

It seems necessary to remind you that some time must yet elapse before all the states will have decided on the present plan. If they reject it, some time must also pass before the measure of a new convention can be brought about and generally agreed to. A further space of time will then be requisite to elect their deputies, and send them on to convention. What time they may expend, when met, cannot be divined; and it is equally uncertain how much time the several states may take to deliberate and decide on any plan they may recommend. If adopted, still a further space of time will be necessary to organize and set it in motion. In the mean time, our affairs are daily going on from bad to worse; and it is not rash to say that our distresses are accumulating like compound interest.

But if, for the reasons already mentioned, and others that we cannot now perceive, the new convention, instead of producing a better plan, should give us only a history of their disputes, or should offer us one still less pleasing than the present, where should we be then? The old Confederation has done its best, and cannot help us; and is now so relaxed and feeble, that, in all probability, it would not survive so violent a shock. Then, "To your tents, O Israel!" would be the word. Then, every band of union would be severed. Then, every state would be a little nation, jealous of its neighbors, and anxious to strengthen itself, by foreign alliances, against its former friends. Then farewell to fraternal affection, unsuspecting intercourse, and mutual participation in commerce, navigation, and citizenship. Then would arise mutual restrictions and fears, mutual garrisons and standing armies, and all those dreadful evils which for so many ages plagued England, Scotland, Wales, and Ireland, while they continued disunited, and were plied off against each other.

Consider, then, how weighty and how many considerations advise and persuade the people of America to remain in the safe and easy path of union; to continue to move and act, as they hitherto have done, as a band of brothers; and to have confidence in themselves and in one another; and, since all cannot see with the same eyes, at least to give the proposed Constitution a fair trial, and to mend it as time, occasion, and experience, may dictate. It would little become us to verify the predictions of those who ventured to prophesy that peace, instead of blessing us with happiness and tranquillity, would serve only as the signal for factions, discord, and civil contentions, to rage in our land, and overwhelm it with misery and distress.

Let us also be mindful that the cause of freedom greatly depends on the use we make of the singular opportunities we enjoy of governing ourselves wisely; for, if the event should prove that the people of this country either cannot or will not govern themselves, who will hereafter be advocates for systems which, however charming in theory and prospect, are not reducible to practice? If the people of our nation, instead of consenting to be governed by laws of their own making, and rulers of their own choosing, should let licentiousness, disorder, and confusion, reign over them, the minds of men every where will insensibly become alienated from republican forms, and prepared to prefer and acquiesce in governments which, though less friendly to liberty, afford more peace and security.

Receive this address with the same candor with which it is written; and may the spirit of wisdom and patriotism direct and distinguish your councils and your conduct.

JOHN JAY, *a Citizen of New York.*



## LETTER FROM THE HON. RICHARD HENRY LEE, Esq.

ONE OF THE DELEGATES IN CONGRESS FROM THE STATE OF VIRGINIA.

TO HIS EXCELLENCY, EDMUND RANDOLPH, ESQ.,

GOVERNOR OF SAID STATE.

[EXTRACTS.]

NEW YORK, *October 16, 1787.*

IT has hitherto been supposed a fundamental maxim, that, in governments rightly balanced, the different branches of legislature should be unconnected, and that the legislative and executive powers should be separate. In the new Constitution, the President and Senate have all the executive, and two thirds of the legislative power. In some weighty instances, (as making all kinds of treaties, which are to be the laws of the land,) they have the whole legislative and executive powers. They, jointly, appoint all officers, civil and military; and they (the Senate) try all impeachments, either of their own members or of the officers appointed by themselves.

Is there not a most formidable combination of power thus created in a few? and can the most critic eye, if a candid one, discover responsibility in this potent corps? or will any sensible man say that great power, without responsibility, can be given to rulers with safety to liberty? It is most clear that the parade of impeachment is nothing to them, or any of them: as little restraint is to be found, I presume, from the fear of offending constituents. The President is for four years' duration; and Virginia (for example) has one vote of thirteen in the choice of him, and this thirteenth vote not of the people, but electors, two removes from the people. The Senate is a body of six years' duration, and, as in the choice of President, the largest state has but a thirteenth vote, so is it in the choice of senators. This latter statement is adduced to show that responsibility is as little to be apprehended from amenability to constituents, as from the terror of impeachment. You are, therefore, sir, well warranted in saying, either a monarchy or aristocracy will be generated: perhaps the most grievous system of government may arise.

It cannot be denied, with truth, that this new Constitution is, in its first principles, highly and dangerously oligarchic; and it is a point agreed, that a government of the few is, of all governments, the worst.

The only check to be found in favor of the democratic principle, in this system, is the House of Representatives; which, I believe, may justly be called a mere shred or rag of representation; it being obvious to the least examination, that smallness of number, and great comparative disparity of power, render that house of little effect, to promote good or restrain bad government. But what is the power given to this ill-constructed body? To judge of what may be for the general welfare; and such judgments, when made the acts of Congress, become the supreme laws of the land. This seems a power coëxtensive with every possible object of human legislation. Yet there is no restraint, in form of a bill of rights, to secure (what Doctor Blackstone calls) that residuum of human rights which is not intended to be given up to society, and which, indeed, is not necessary to be given for any social purpose. The rights of conscience, the freedom of the press, and the trial by jury, are at mercy. It is there



stated that, in criminal cases, the trial shall be by jury. But how? In the state. What, then, becomes of the jury of the vicinage, or at least from the county, in the first instance—the states being from fifty to seven hundred miles in extent? This mode of trial, even in criminal cases, may be greatly impaired; and, in civil cases, the inference is strong that it may be altogether omitted; as the Constitution positively assumes it in criminal, and is silent about it in civil causes. Nay, it is more strongly discountenanced in civil cases, by giving the Supreme Courts, in appeals, jurisdiction both as to law and fact.

Judge Blackstone, in his learned Commentaries, art. *Jury Trial*, says, "It is the most transcendent privilege, which any subject can enjoy or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbors and equals—a constitution that, I may venture to affirm, has, under Providence, secured the just liberties of this nation for a long succession of ages. The impartial administration of justice, which secures both our persons and our properties, is the great end of civil society. But if that be entirely intrusted to the magistracy,—a select body of men, and those generally selected, by the prince, of such as enjoy the highest offices of the state,—these decisions, in spite of their own natural integrity, will have frequently an involuntary bias towards those of their own rank and dignity. It is not to be expected from human nature, that the few should always be attentive to the good of the many." The learned judge further says, that "every tribunal, selected for the decision of facts, is a step towards establishing aristocracy—the most oppressive of all governments."

The answer to these objections is, that the new legislature may provide remedies! But as they may, so they may not; and if they did, a succeeding assembly may repeal the provisions. The evil is found resting upon constitutional bottom; and the remedy, upon the mutable ground of legislation, revocable at any annual meeting. It is the more unfortunate that this great security of human rights—the trial by jury—should be weakened by this system, as power is unnecessarily given in the second section of the third article, to call people from their own country, in all cases of controversy about property between citizens of different states, to be tried in a distant court, where the Congress may sit; for although inferior congressional courts may, for the above purposes, be instituted in the different states, yet this is a matter altogether in the pleasure of the new legislature; so that, if they please not to institute them, or if they do not regulate the right of appeal reasonably, the people will be exposed to endless oppression, and the necessity of submitting, in multitudes of cases, to pay unjust demands, rather than follow suitors, through great expense, to far-distant tribunals, and to be determined upon there, as it may be, without a jury.

In this congressional legislature, a bare majority of votes can enact commercial laws; so that the representatives of the seven Northern States, as they will have a majority, can, by law, create the most oppressive monopoly upon the five Southern States, whose circumstances and productions are essentially different from those of theirs, although not a single man of these voters are the representatives of, or amenable to, the people of the Southern States. Can such a set of men be, with the least color of truth, called a representative of those they make laws for? It is supposed that the policy of the Northern States will prevent such abuses. Bu\* how feeble, sir, is policy, when opposed to interest, among trading people! and what is the restraint arising from policy? Why, that we may

be forced, by abuse, to become ship-builders! But how long will it be before a people of agriculture can produce ships sufficient to export such bulky commodities as ours, and of such extent? and if we had the ships, from whence are the seamen to come?—4,000 of whom, at least, will be necessary in Virginia. In questions so liable to abuse, why was not the necessary vote put to two thirds of the members of the legislature?

With the Constitution came, from the Convention, so many members of that body to Congress, and of those, too, who were among the most fiery zealots for their system, that the votes of three states being of them, two states divided by them, and many others mixed with them, it is easy to see that Congress could have little opinion upon the subject.

Some denied our right to make amendments; whilst others, more moderate, agreed to the right, but denied the expediency of amending; but it was plain that a majority was ready to send it on, in terms of approbation. My judgment and conscience forbade the last; and therefore I moved the amendments that I have the honor to send you enclosed herewith, and demanded the yeas and nays, that they might appear on the Journal.

This seemed to alarm; and, to prevent such appearance on the Journal, it was agreed to transmit the Constitution without a syllable of approbation or disapprobation; so that the term “unanimously” only applied to the transmission, as you will observe by attending to the terms of the resolve for transmitting. Upon the whole, sir, my opinion is, that, as this Constitution abounds with useful regulations, at the same time that it is liable to strong and fundamental objections, the plan for us to pursue will be to propose the necessary amendments, and express our willingness to adopt it with the amendments, and to suggest the calling a new convention for the purpose of considering them. To this I see no well-founded objection, but great safety and much good to be the probable result. I am perfectly satisfied that you make such use of this letter as you shall think to be for the public good; and now, after begging your pardon for so great a trespass on your patience, and presenting my best respects to your lady, I will conclude with assuring you that I am, with the sincerest esteem and regard, dear sir, your most affectionate and obedient, humble servant,

RICHARD H. LEE.

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## GOVERNEUR MORRIS TO GENERAL WASHINGTON

PHILADELPHIA, *October 30, 1787.*

DEAR SIR: The states eastward of New York appear to be almost unanimous in favor of the new Constitution, (for I make no account of the dissension in Rhode Island.) Their preachers are advocates for the adoption; and this circumstance, coinciding with the steady support of the property, and other abilities of the country, makes the current set strongly, and I trust irresistibly, that way.

Jersey is so near unanimity in her favorable opinion, that we may count with certainty on something more than votes, should the state of affairs hereafter require the application of pointed arguments. New York, hemmed in between the warm friends of the Constitution, will not

easily, unless supported by powerful states, make any important struggle, even though her citizens were unanimous, which is by no means the case. Parties there are nearly balanced. If the assent, or dissent, of the New York legislature were to decide on the fate of America, there would still be a chance, though I believe the force of government would preponderate, and effect a rejection. But the legislature cannot assign to the people any good reason for not trusting them with a decision on their own affairs, and must therefore agree to a convention. In the choice of convention, it is not improbable that the federal party will prove strongest; for persons of very distinct and opposite interests have joined on this subject.

With respect to this state, I am far from being decided in my opinion that they will consent. True it is, that the city and its neighborhood are enthusiastic in the cause; but I dread the cold and sour temper of the back counties, and still more the wicked industry of those who have long habituated themselves to live on the public, and cannot bear the idea of being removed from the power and profit of state government, which has been, and still is, the means of supporting themselves, their families, and dependants, and (which is perhaps equally grateful) of depressing and humbling their political adversaries. What opinions prevail more southward, I cannot guess. You are in a better condition than any other person to judge of a great and important part of that country.

I have observed that your name to the new Constitution has been of infinite service. Indeed, I am convinced that, if you had not attended that Convention, and the same paper had been handed out to the world, it would have met with a colder reception, with fewer and weaker advocates, and with more, and more strenuous, opponents. As it is, should the idea prevail that you will not accept the Presidency, it would prove fatal in many parts. The truth is, that your great and decided superiority leads men willingly to put you in a place which will not add to your personal dignity, nor raise you higher than you already stand. But they would not readily put any other person in the same situation, because they feel the elevation of others as operating, by comparison, the degradation of themselves; and, however absurd this idea may be, yet you will agree with me, that men must be treated as men, and not as machines, much less as philosophers, and least of all things as reasonable creatures, seeing that, in effect, they reason not to direct, but to excuse their conduct. Thus much for the public opinion on these subjects, which is not to be neglected in a country where opinion is every thing.

I am, &c., GOUVERNEUR MORRIS.



## GOUVERNEUR MORRIS TO TIMOTHY PICKERING,

IN CONGRESS. .

Dated, MORRISANIA, *December 22, 1814.*

MY DEAR SIR: What can a history of the Constitution avail towards interpreting its provisions? This must be done by comparing the plain import of the words with the general tenor and object of the instrument.

That instrument was written by the fingers which write this letter. Having rejected redundant and equivocal terms, I believed it to be as clear as our language would permit; excepting, nevertheless, a part of what relates to the judiciary. On that subject, conflicting opinions had been maintained with so much professional astuteness, that it became necessary to select phrases which, expressing my own notions, would not alarm others, nor shock their self-love; and to the best of my recollection, this was the only part which passed without cavil.

But, after all, what does it signify that men should have a written constitution, containing unequivocal provisions and limitations? The legislative lion will not be entangled in the meshes of a logical net. The legislature will always make the power which it wishes to exercise, unless it be so organized as to contain within itself the sufficient check. Attempts to restrain it from outrage, by other means, will only render it more outrageous. The idea of binding legislators by oaths is puerile. Having sworn to exercise the powers granted, according to their true intent and meaning, they will, when they feel a desire to go farther, avoid the shame, if not the guilt, of perjury, by swearing the true intent and meaning to be, according to their comprehension, that which suits their purpose.

GOUVERNEUR MORRIS

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### JAMES MADISON TO MR. SPARKS.

Dated, MONTPELLIER, *April 8, 1831.*

DEAR SIR: I have only received your letter of March 30th. In answer to your inquiries "respecting the part acted by Gouverneur Morris in the Federal Convention of 1787, and the political doctrines maintained by him," it may be justly said that he was an able, an eloquent, and an active member, and shared largely in the discussions succeeding the 1st of July, previous to which, with the exception of a few of the early days, he was absent.

Whether he accorded precisely with the "political doctrines of Hamilton," I cannot say. He certainly did not "incline to the democratic side," and was very frank in avowing his opinions, when most at variance with those prevailing in the Convention. He did not propose any outline of a constitution, as was done by Hamilton; but contended for certain articles (a Senate for life particularly) which he held essential to the stability and energy of a government capable of protecting the rights of property against the spirit of democracy. He wished to make the weight of wealth balance that of numbers, which he pronounced to be the only effectual security to each, against the encroachments of the other.

The *finish* given to the style and arrangement of the Constitution fairly belongs to the pen of Mr. Morris; the task having, probably, been handed over to him by the chairman of the committee, himself a highly respectable member, and with the ready concurrence of the others. A better choice could not have been made, as the performance of the task proved. It is true that the state of the materials, consisting of a reported draft in detail, and subsequent resolutions accurately penned, and falling easily



into their proper places, was a good preparation for the symmetry and phraseology of the instrument; but there was sufficient room for the talents and taste stamped by the author on the face of it. The alterations made by the committee are not recollected. They were not such as to impair the merit of the composition. Those, verbal and others, made in the Convention, may be gathered from the Journal, and will be found also to leave that merit altogether unimpaired.

The anecdote you mention may not be without a foundation, but not in the extent supposed. It is certain that the return of Mr. Morris to the Convention was at a critical stage of its proceedings. The knot, felt as the Gordian one, was, the question between the larger and the smaller states, on the rule of voting in the senatorial branch of the legislature; the latter claiming, the former opposing, the rule of equality. Great zeal and pertinacity had been shown on both sides, and an equal division of votes on the question had been reiterated and prolonged, till it had become not only distressing, but seriously alarming. It was during that period of gloom that Dr. Franklin made the proposition for a religitious service in the Convention, an account of which was so erroneously given, with every semblance of authenticity, through the *National Intelligencer*, several years ago. The crisis was not over, when Mr. Morris is said to have had an interview and conversation with General Washington and Mr. Robert Morris, such as may well have occurred. But it appears that, on the day of his reëntering the Convention, a proposition had been made from another quarter to refer the knotty question to a committee, with a view to some compromise, the indications being manifest that sundry members from the larger states were relaxing in their opposition, and that some ground of compromise was contemplated, such as finally took place, and as may be seen in the printed Journal. Mr. Morris was in the deputation from the large state of Pennsylvania, and combated the compromise throughout. The tradition is, however, correct, that, on the day of his resuming his seat, he entered with anxious feelings into the debate, and in one of his speeches painted the consequences of an abortive result to the Convention, in all the deep colors suited to the occasion. But it is not believed that any material influence on the turn which things took could be ascribed to his efforts; for, besides the mingling with them some of his most disrelished ideas, the topics of his eloquent appeals to the members had been exhausted during his absence, and their minds were too much made up to be susceptible of new impressions.

It is but due to Mr. Morris to remark, that to the brilliancy of his genius he added — what is too rare — a candid surrender of his opinions when the lights of discussion satisfied him that they had been too hastily formed; and a readiness to aid in making the best of measures in which he had been overruled.

In making this communication, I have more confidence in the discretion with which it will be used, than in its fulfilment of your anticipations. I hope it will, at least, be accepted as a proof of my respect for your object, and of the sincerity with which I tender to you a reassurance of my cordial esteem and good wishes.

JAMES MADISON.











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